

ORIGINAL

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2011 JUL 22 PM 2:47

IN AND FOR THE COUNTY OF YAVAPAI

SANDRA K. MARKHAM, CLERK

BY: _____

THE STATE OF ARIZONA,)

Plaintiff,)

vs.)

No. P1300CR2008-1339

STEVEN CARROLL DEMOCKER,)

Defendant.)

BEFORE: THE HONORABLE WARREN R. DARROW
JUDGE PRO TEMPORE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
WEDNESDAY, SEPTEMBER 8, 2010
9:19 A.M. - 4:35 P.M.

REPORTER'S PARTIAL TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

TESTIMONY OF NICOLE BUSH, TOMMY L. MEREDITH,
MAXWELL HANSON, ANN MARGARET SAXERUD, ALEXANDER KNAPP
AND PAM EDGERTON

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

INDEX

TESTIMONY

PAGE

NICOLE BUSH

Direct examination by Mr. Butner	5
Cross-examination by Ms. Chapman	14
Redirect examination by Mr. Butner	17
Questions by the Jury	25
Follow-up questions by Mr. Butner	27
Follow-up questions by Ms. Chapman	31

TOMMY L. MEREDITH

Direct examination by Mr. Butner	34
Cross-examination by Ms. Chapman	40
Redirect examination by Mr. Butner	43

MAXWELL HANSON

Direct examination by Mr. Butner	47
Questions by the Jury	57
Follow-up questions by Ms. Chapman	58
Questions by the Jury	58
Follow-up questions by Mr. Butner	59
Follow-up questions by Ms. Chapman	60
Questions by the Jury	60
Follow-up questions by Mr. Butner	61

ANN MARGARET SAXERUD

Direct examination by Mr. Butner	63
Cross-examination by Mr. Sears	81
Questions by the Jury	86

ALEXANDER KNAPP

Direct examination by Mr. Butner	89
----------------------------------	----

PAM EDGERTON

Direct examination by Mr. Butner	98
Voir Dire examination by Mr. Sears	133
Direct examination resumed by Mr. Butner	134

APPEARANCES

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1 (Whereupon, the jury enters the courtroom.)

2 THE COURT: We are on the record in the State
3 of Arizona versus Steven Carroll DeMocker. The Defendant,
4 all of the attorneys, and the jury are present.

5 Mr. Butner, you may proceed.

6 MR. BUTNER: Thanks, Judge.

7 I would like to call Nicole Bush to the
8 stand.

9 THE COURT: Ma'am, if you would, please raise
10 your right hand and be sworn by the clerk.

11 THE CLERK: You do solemnly swear or affirm
12 under the penalty of perjury that the testimony you are about
13 to give will be the truth, the whole truth, and nothing but
14 the truth, so help you God?

15 THE WITNESS: Yes, I do.

16 THE COURT: Please be seated here at the
17 witness stand.

18 Ma'am, would you please begin by stating
19 and spelling your full name.

20 THE WITNESS: My name is Nicole Bush,
21 N-I-C-O-L-E, B-U-S-H.

22 THE COURT: Thank you.

23 NICOLE BUSH,
24 called as a witness, having been duly sworn, testified as
25 follows:

DIRECT EXAMINATION

BY MR. BUTNER:

Q. Okay. Nicole Bush, what is your occupation?

A. I am an automatic gate company owner, and I am also a remote programmer for gate -- gated communities.

Q. Okay. Let's see if we can get all of that kind of cleared up.

You are an automatic gate company owner?

A. Yes.

Q. Okay. And what's the name of the company that you own?

A. Automated Entry Services.

Q. And how long have you owned that company?

A. Three years.

Q. And, then, you are an automatic gate programmer?

A. A remote gate programmer.

Q. A remote gate programmer?

A. Yes.

Q. Okay. Tell us what a remote gate programmer is?

A. I communicate with the gates in different remote locations, adding and subtracting information, and being able to go and do transaction and residential group reports.

Q. Okay. And how do you do this -- communicating gates in remote locations?

A. Through my computer, with a modem phone line.

1 Q. So by way of computer and telephone?

2 A. Yes.

3 Q. And is this some kind of special codes that you
4 type in to communicate with these gates?

5 A. Entry codes and remote transmitters. And, so,
6 yeah, I enter them into the different programs, and send it
7 to the unit and update the unit.

8 Q. Okay. And your automatic gate company -- you've
9 been in business 3 years, you said; right?

10 A. Yes.

11 Q. So you were in business back on or about July the
12 2nd of the year 2008?

13 A. Yes.

14 Q. And on that particular date, did you have as an
15 account of yours the Hassayampa Country Club area
16 condominiums there?

17 A. Yes.

18 Q. And being specific, the condominiums on Alpine
19 Meadows. Did you have those as one of your accounts?

20 A. Yes, I do.

21 Q. How long have they been one of your accounts?

22 A. I have been doing the remote programming for
23 5 years, and that's as long as I've had them.

24 Q. So you at that point in time -- did you have your
25 own company at that point in time?

1 A. In 2008, yes.

2 Q. But prior to that time you'd been working for
3 somebody else?

4 A. Yes.

5 Q. Who had you worked for prior to that time?

6 A. Able Automatic Gates.

7 Q. And so, had you been working on those gates all
8 that time?

9 A. Yes.

10 Q. And when I say "working on those gates," it sounds
11 like you're out there fixing them and stuff. You mean
12 computer working on them; right?

13 A. Right. Uh-huh.

14 Q. Okay. Now, as the owner of the company and also
15 as a remote gate programmer, did you have care, custody, and
16 control of the records of the company for those automatic
17 gates in the ordinary course of your business?

18 A. Yes.

19 Q. And do you maintain those records?

20 A. Yes, I do.

21 Q. Well, I've heard the name Door King, Inc. What is
22 Door King, Inc.?

23 A. Door King is a company as a brand name. They put
24 out telephone entry units, gate operators, barrier gates.
25 They just -- they deal with security.

1 Q. So are they an equipment provider for your
2 industry?

3 A. Yes. Uh-huh.

4 Q. Is that what they do?

5 A. Yes.

6 Q. Okay. They provide the automatic gates?

7 A. They supply the equipment, like operators and
8 stuff like that. Gates, no, not necessarily.

9 Q. Okay. So they don't provide the gates, but they
10 provide the equipment that operates the gates?

11 A. Yes.

12 Q. All right. Well, let me show you -- actually, two
13 exhibits -- Exhibit No. 3246 and 3247. I would like you to
14 take a look at both of these exhibits, if you could.

15 A. Uh-huh.

16 Q. All right. Okay. Do you recognize those
17 exhibits?

18 A. Yes.

19 Q. Okay. What are they?

20 A. These are transaction reports that I had generated
21 from my computer to supply for the detective when he asked
22 for it.

23 Q. Okay. And when you say "transaction reports,"
24 what does that mean?

25 A. That means I go and I pull from the telephone unit

1 the transactions that have gone through the gate, who has
2 gone through, using what device or what means to be able to
3 go and access the gate. And so -- and it records everything,
4 because every number is associated with a name. And so, I am
5 able to go and recall from the unit who went through the
6 gate, at what time, and using what device.

7 Q. Who was the detective that asked you to do this?
8 Do you remember his name?

9 A. I believe his name was Brown.

10 Q. Detective Brown. Okay.

11 And so, these transaction reports that
12 you have before you, those are records that you keep in the
13 ordinary course of your business?

14 A. Yes.

15 Q. Okay. And when you say "transaction reports," do
16 they show all the times people go in and out of the gates?

17 A. Yes.

18 Q. And in regard to Exhibit No. 3246, who is depicted
19 as going in and out of -- whose transactions did you seize,
20 so to speak, from your computer records when you got that
21 report printed out?

22 A. That was from Mr. DeMocker.

23 Q. And do you have other people's names on that,
24 also?

25 A. On this paper?

1 Q. On 3246, yes. That one is -- let me show you --
2 these exhibit numbers are really, really small.

3 This one is 3247. Okay. Looking at this
4 one, did you also get other people's names and other people's
5 records of "in and outs" at the gate?

6 A. All I got were when I was requested to get by
7 certain codes and names and numbers. And the only name I was
8 called to go and get was Mr. DeMocker's, but I was asked for
9 different codes. Some people's other names came up with
10 those codes.

11 Q. I see. Okay.

12 And so, 3246 and 3247 are all of the
13 transactions for that particular time frame?

14 A. Uh-huh. Yes.

15 Q. Is that yes?

16 A. Yes.

17 Q. Okay. And let's just be specific. The time frame
18 is July the 2nd of the year 2008?

19 A. Uh-huh.

20 Q. Is that correct?

21 A. Yes.

22 Q. And it's from sometime in the early morning, 7:00
23 something in the morning?

24 A. Yes.

25 Q. To 10:30 at night, in regard to 3246; right?

1 A. Yes.

2 Q. And, then, on 3247, it goes from 10:10 at night to
3 11:51 p.m. at night; is that correct?

4 A. Yes.

5 MR. BUTNER: Okay. I would move for the
6 admission of 3246 and 3247.

7 MS. CHAPMAN: Your Honor, if I could take a
8 look at 3246, please?

9 THE COURT: You may.

10 MR. BUTNER: I will bring them both over just
11 to be safe.

12 I made a mistake, and Ms. Chapman is very
13 good at drawing my attention to those mistakes.

14 Q. This particular document, 3246, goes from
15 approximately 9:27 in the morning on July 2nd to
16 approximately 10:30 p.m. on July 3rd; is that correct?

17 A. I believe so, yes.

18 Q. And that's the record of all of the "ins and outs"
19 through the gate?

20 A. Yes.

21 Q. Okay. And, then, 3246 goes from -- I'm sorry --
22 3247 goes from 10:10 p.m. on July the 2nd at -- from
23 10:10 p.m. on July the 2nd to 11:51 p.m. on July the 2nd; is
24 that correct?

25 A. Yes.

1 MR. BUTNER: Okay. Having cleared that up, I
2 would, once again, move for the admission of 3246 and 3247.

3 MS. CHAPMAN: No objection.

4 THE COURT: 3246 and 47 are admitted.

5 BY MR. BUTNER:

6 Q. Now, in looking at those particular exhibits, do
7 you know what the codes are for Mr. DeMocker's gate operator
8 devices?

9 A. Well, according to this, he has an entry code of
10 0511, and he has a transmitter of 02381 and 25687.

11 Q. So he has two transmitters and one entry code?

12 A. Yes.

13 Q. Okay. And the transmitters, what are those
14 devices for?

15 A. They're kind of like a garage door opener kind of
16 a thing, and so -- but it opens up the gate.

17 Q. All right. And so, you carry that in your car,
18 and when you want to go in the gate, you press your clicker?

19 A. Yes.

20 Q. Just like the garage door?

21 A. Right.

22 Q. Okay. And in regard to Exhibit 3247, it also has
23 some other people's names on that; correct?

24 A. Yes.

25 Q. And do you see a name for a T. Meredith on there?

1 A. Yes, I do.

2 Q. And do you have Mr. Meredith's transactions going
3 in the gate?

4 A. Yes.

5 Q. Okay. And that's his transactions for July the
6 2nd?

7 A. Yes.

8 Q. And in regard to these gates, do you need to
9 activate the gate in order to go out of the gate?

10 A. No.

11 Q. And when I say "activate the gate," I mean, do you
12 need to use a code or a transmitter?

13 A. No.

14 Q. You can just pull up, and it will automatically
15 let you out?

16 A. Yes.

17 Q. But you need to have the secret code, so to speak,
18 to get in the gate?

19 A. Yes.

20 Q. Okay. That's the way it works for security
21 purposes?

22 A. Right.

23 MR. BUTNER: Let me see those for just a
24 second -- I will get out of the way.

25 I don't have any further questions of

1 this witness at this time.

2 THE COURT: Thank you.

3 Ms. Chapman.

4 CROSS-EXAMINATION

5 BY MS. CHAPMAN:

6 Q. Miss Bush, in looking at 3246 and 3247, the
7 exhibits that you have in front of you, I notice that at each
8 time there are multiple entries for the same time. Can you
9 explain why that happens?

10 A. Yes. At that particular gate location there is
11 the entrance gate, there is another gate behind the entrance
12 gate on the other side of the entrance at Conifer Ridge, and
13 then there's the exit gate. You have to have a -- certain
14 relays for each gate. So, when you go and press your clicker
15 or put in your entry code, it goes and talks to the unit,
16 which tells it to either open up this gate or open up both
17 gates.

18 Should you live in Conifer Ridge, it
19 would open up the main gate and the Conifer Ridge gate so you
20 can just drive right on through.

21 Q. So the fact that on 3246 there may be five or six
22 entries at 10:15, doesn't mean someone went in five or six
23 times to the gate. It just means that --

24 A. That they hit those different relays.

25 Q. I'm sorry?

1 A. Hit the different relays.

2 Q. Okay. So is it fair to say, then, if there's a
3 time with five or six entries in this record on 3246 and
4 3247, that indicates one entrance at one time?

5 A. Right.

6 Q. Okay. And you had suggested, I think -- by
7 looking at 3246 -- you can determine the two key codes or
8 transmitters that were issued to Mr. DeMocker; is that
9 correct?

10 A. Yes.

11 Q. And, then, is an entry code a code that is punched
12 in, as opposed to using a transmitter to enter?

13 A. Yes.

14 Q. All right. And are the multiple key codes
15 identified to a particular user?

16 A. Yes.

17 Q. And so, if two key codes or two transmitters are
18 given, do you know which person in the household is using it?
19 For example, do you know which key code or transmitter
20 Charlotte DeMocker used?

21 A. No.

22 Q. And do you know which key code or transmitter
23 Steve DeMocker used?

24 A. No.

25 Q. All right. But either one of them could have used

1 either of these two key codes or transmitters; is that right?

2 A. Right.

3 Q. They're just issued to him as a resident at the
4 country club?

5 A. Right.

6 Q. And I take it, then, on this record 3246 and 3247,
7 to the right where it says "relay one" and "relay two," those
8 are the different gates that you were describing that depend
9 upon where the person lives in the country club, condos?

10 A. Yes.

11 Q. And I also -- these time stamps on the records
12 3246 and 3247, are those time stamps checked for accuracy?

13 A. I don't understand.

14 Q. Well, for example, the top key code entry
15 indicates that at 10:30 p.m. on 7/2/08 there was a deny,
16 although there's four or five events there. Does that -- can
17 you confirm that that 10:30 is an accurate time reading on
18 7/3/08 [sic]?

19 A. Yes, it is.

20 Q. Okay. And how do you test that?

21 A. Because every time I go and I contact the unit, it
22 automatically resets the clock to my clock, which I keep
23 impeccable time with mine because I have to. And so, with
24 the Door King's system, every time I contact the unit, and I
25 contact these gates daily, at least three to ten times a day.

1 Q. Okay. So three to ten times a day you are
2 updating the time stamps. So these time stamps should be
3 accurate?

4 A. Yes.

5 MS. CHAPMAN: No further questions. Thank
6 you.

7 THE COURT: Thank you.

8 Mr. Butner, redirect?

9 MR. BUTNER: Just a little bit, Judge.

10 I want to put these up on the board --
11 sorry, Phil, I'll get this part. I think I can do this -- I
12 will borrow this for a moment to put them up on the board.

13 Judge, have you got the laser pointer?

14 Thank you.

15 THE COURT: What number is that, Mr. Butner?

16 MR. BUTNER: I have just put on the overhead,
17 Exhibit No. 3246.

18 THE COURT: Thank you.

19 REDIRECT EXAMINATION

20 BY MR. BUTNER:

21 Q. Okay. Looking at Exhibit 3246. For example, up
22 at the top -- let's just look at the top where it has
23 S. DeMocker there. And it says on July the 3rd of the year
24 2008 at 10:30 p.m., there was a deny at "relay two" for
25 S. DeMocker; right?

1 A. Yes.

2 Q. But there was an admit at "relay one" for
3 S. DeMocker at that same time; right?

4 A. Yes.

5 Q. Okay. What does that mean?

6 A. That means that he -- that Mr. DeMocker does not
7 live behind Conifer Ridge, where is the second relay, because
8 the entrance is "relay one," Conifer Ridge is "relay two,"
9 and the exit gate is "relay three."

10 If he was to go and live behind Conifer
11 Ridge, it would admit and admit for both relays for both
12 gates to open, but they don't want the Conifer Ridge gate to
13 open for everybody when they press it in. He lives in the
14 Alpine area.

15 Q. And the Alpine area is before you get to Conifer
16 Ridge?

17 A. It is the different area -- it goes off to the
18 left verses Conifer Ridge's gate is right as you go in the
19 entrance gate.

20 Q. I see. Okay.

21 So let's go to July the 2nd at 10:09 p.m.
22 You see where I am pointing right down here at the bottom?

23 A. Uh-huh.

24 Q. Okay. July the 2nd, 10:09 p.m., deny
25 "relay two"; right?

1 A. Yes.

2 Q. That's Conifer Ridge?

3 A. Right.

4 Q. Deny "relay two" is Conifer Ridge again?

5 A. Yes.

6 Q. Deny "relay two" is Conifer Ridge again; right?

7 A. Yes.

8 Q. But admit at 10:09 p.m. on that July 2nd, 2008,
9 date, is Mr. DeMocker being admitted to the Alpine Meadows
10 area?

11 A. Yes.

12 Q. Okay. And, then, on that date at 10:16 p.m. -- on
13 July 2nd of 2008 at 10:16 p.m., we have Mr. DeMocker admitted
14 at Alpine Meadows again; right?

15 A. Yes.

16 Q. But he's denied at Conifer Ridge two times; right?

17 A. Yes.

18 Q. And, then, on July 2nd of 2008 at 10:16 p.m., he
19 is admitted again at Alpine Meadows; right?

20 A. Yes.

21 Q. And, then, on July 2nd of 2008 at 11:04 p.m., he
22 is admitted again at Alpine Meadows; right?

23 A. Yes.

24 Q. And, then, at that same time on July the 2nd of
25 2008, he is admitted again at Alpine Meadows at 11:04 p.m.;

1 right?

2 A. Yes.

3 Q. How come we have two admissions at the same exact
4 time?

5 A. It looked like it was going and having two
6 different transmitters that were used.

7 Q. Well, let's just take a look.

8 All right. July 2nd, 2008, 11:04 p.m.,
9 here we have Mr. DeMocker, admit "relay one"; right?

10 A. Yes.

11 Q. And that's No. 25687?

12 A. Uh-huh.

13 Q. Right. That's one of his transmitters; correct?

14 A. Right.

15 Q. Okay. And, then, at 11:04 p.m., the same
16 transmitter number, he's admitted again, "relay one." See?

17 A. Uh-huh.

18 Q. Can you explain that for us?

19 A. No.

20 Q. Maybe, I mean, do people sometimes click it twice
21 and it starts to open, and then they click it again, and then
22 it starts to open again?

23 A. That does happen.

24 Q. Is that right? So that's a possible explanation?

25 A. Yes.

1 Q. Especially if it's right at the same time,
2 11:04 p.m.; right?

3 A. Yes.

4 Q. Similarly, at 10:16 p.m., we have transmitter
5 2381, Mr. DeMocker; right?

6 A. Yes.

7 Q. That's DeMocker. Admitted at "relay one" at that
8 time, 10:16 p.m.?

9 A. Yes.

10 Q. And, then, at 10:16 p.m., transmitter 2381,
11 Mr. DeMocker admitted again. Exact same time, "relay one";
12 right?

13 A. Yes.

14 Q. Okay. That could be another "double-click"
15 situation, so to speak?

16 A. Yes.

17 Q. Okay.

18 Now, let's go to a little bit later
19 time -- 25687, at 11:21 p.m., we have -- 25687, S. DeMocker
20 admitted "relay one", at 11:21 p.m. Two in a row right
21 there. Do you see those?

22 A. Yes.

23 Q. But exactly the same time, 11:21 p.m.; correct?

24 A. Yes.

25 Q. And, then, on that same date -- again, July 2nd,

1 2008, 11:51 p.m, we have Mr. DeMocker admitted again; right?

2 A. Yes.

3 Q. But that's not a double entry that time; is it?

4 A. No, it doesn't look so.

5 Q. Okay. And, then, these 0511 numbers that I am
6 pointing at right here; right?

7 A. Yes.

8 Q. You see those? Those are the entry code; right?

9 A. Yes.

10 Q. Now, explain to us, if you would, how that works.
11 What does the person do to use the entry code?

12 A. You have to pull up to the key pad that is before
13 the gate, press in the "pound" button first, and then the
14 0511.

15 Q. Okay. So that means that the person isn't using a
16 clicker, if they have one?

17 A. Right.

18 Q. But they know the code, so they can punch it in?

19 A. Yes.

20 Q. Works if your clicker runs out of batteries, too;
21 huh?

22 A. Right.

23 Q. Okay. All right.

24 And, then, showing you Exhibit

25 No. 3247 -- I will try and focus that the best that I can --

1 we have -- okay -- at 10:16 p.m., we have clicker No. 2381,
2 S. DeMocker; right?

3 A. Yes.

4 Q. Let me see if I can get it on the one that was
5 admitted. There -- being admitted at "relay one," that's
6 Alpine Meadows; right?

7 A. Yes.

8 Q. And, then, it's a double-click. It looks like at
9 10:16, the same time; right --

10 A. Yes.

11 Q. -- 2381.

12 And, then, at the same time; right,
13 apparently, is that right behind that -- we have that
14 10:16 p.m., T. Meredith?

15 A. I don't know. I can't see it.

16 Q. Oh, you can't see T. Meredith? Okay. Right
17 there, July the 2nd, 2008, 10:16 p.m.; right?

18 A. Yes.

19 Q. T. Meredith?

20 A. Yes.

21 Q. Clicker 51458; right?

22 A. Yes.

23 Q. Admitted "relay one"?

24 A. Yes.

25 Q. So, T. Meredith was admitted -- is that after

1 DeMocker or before DeMocker?

2 A. That would be after.

3 Q. Right after, but the same time; huh?

4 A. Yes.

5 Q. At 10:16 p.m. Okay.

6 And you don't know if 02381 is assigned
7 to Steven DeMocker or one of his kids; right?

8 A. I have no idea.

9 Q. Or some other person in the DeMocker family for
10 that matter; right?

11 A. Right.

12 MR. BUTNER: Okay. Thank you very much.

13 I don't have any further questions,
14 Judge.

15 THE COURT: Thank you, Mr. Butner.

16 We do have some jury questions if I could
17 see those, and I am going to ask Miss Bush to please stay
18 near the witness stand for a moment while I look at the
19 questions.

20 THE WITNESS: All right.

21 THE COURT: Phil, would you go ahead and make
22 copies of those.

23 (Whereupon, a discussion was held at side bar.)

24 (Whereupon, the following was held in
25 open court in front of the jury.)

1 THE COURT: Miss Bush, I am going to ask the
2 question and, then, the lawyers may follow-up. Okay?

3 THE WITNESS: Okay.

4 QUESTIONS BY THE JURY

5 THE COURT: First question is: Can anyone use
6 the access code if someone gave them their code?

7 THE WITNESS: Yes.

8 THE COURT: Follow-up, Mr. Butner?

9 MR. BUTNER: None from the State.

10 THE COURT: Ms. Chapman?

11 MS. CHAPMAN: No, Your Honor.

12 THE COURT: Are there any cameras when the
13 gate is activated?

14 THE WITNESS: No.

15 THE COURT: Follow-up?

16 MR. BUTNER: None from the State.

17 MS. CHAPMAN: No, Your Honor.

18 THE COURT: Why is there multiple relay? Two
19 denies at the same time as "relay one" admits him.

20 Re: 10:09 p.m., 7/2/08.

21 THE WITNESS: Well, there's the different
22 relays -- that's how -- each gate is assigned a relay so we
23 know exactly which one needs to open and how it needs to
24 open. There's a lot of times that when people press their
25 clicker, like for their garage door, they click it like that

1 and it opens. And it's because it only has to send two to
2 three signals for a garage door. For an automatic gate, it
3 has to send five signals. So when you press it one time and
4 it doesn't seem to open, you press it again. By the time
5 you're approaching the gate, you're closer to the receiver,
6 it's more likely that you will be able to go, and it will
7 send those five signals better.

8 THE COURT: Follow-up, Mr. Butner?

9 MR. BUTNER: No questions from the State.

10 THE COURT: Ms. Chapman?

11 MS. CHAPMAN: No questions, Your Honor. Thank
12 you.

13 THE COURT: Mr. Butner, I think the exhibits
14 might still be on the overhead, but this question relates to
15 3246 if you have that one, please.

16 Miss Bush, this question relates to this
17 exhibit.

18 Exhibit 3246 was said to go from
19 9:27 a.m. to 10:30 p.m. on July 2nd, but the exhibit shows
20 through 10:30 p.m. on July 3rd, 2008. Please give the
21 correct information for this exhibit.

22 THE WITNESS: I was asked for a specific time
23 frame on a specific date, and I put that into my query for my
24 search, and this is what I got from the unit.

25 MR. BUTNER: And just to clarify the record,

1 here is the second page of the exhibit.

2 THE COURT: Mr. Butner, did you want to
3 follow-up on this point?

4 MR. BUTNER: If I could, Judge. Thank you.

5 FOLLOW-UP QUESTIONS

6 BY MR. BUTNER:

7 Q. So, referring to Exhibit 3246, the second page,
8 Page 2, it begins July the 2nd of 2008 at 9:27 a.m.; right?

9 A. Yes.

10 Q. And it indicates entry code and 0511 there; right?

11 A. Yes.

12 Q. And, then, S. DeMocker, admit "relay one"?

13 A. Yes.

14 Q. So somebody using Mr. DeMocker's entry code was
15 admitted into the Alpine Meadows area at 9:27 a.m. on July
16 2nd of 2008; right?

17 A. Yes.

18 Q. That's what that means.

19 Okay. And, then, the next time,
20 according to your records, that there's an admission for
21 Mr. DeMocker, or someone in his family, is at 7:00 -- is at
22 4:04 p.m. on July 2nd of 2008; right?

23 A. Yes.

24 Q. And transmitter 2381 shows an admission into the
25 Alpine Meadows area at 4:04 p.m.; correct?

1 A. Yes.

2 Q. And that's one of those "double-click,"
3 apparently; right?

4 A. Apparently.

5 Q. The same transmitter is admitted two times at
6 exactly the same time for 4:00 p.m.; correct?

7 A. Yes.

8 Q. And, then, on that same day, July 2nd of 2008 at
9 4:52 p.m., transmitter 25687 for S. DeMocker is admitted into
10 the Alpine Meadows area; right?

11 A. Yes.

12 Q. Okay. And, in fact, that's another one that has
13 some "double-clicks"; right?

14 A. Yes.

15 Q. Okay. And, then, the last entry on 3246 --
16 Exhibit 3246 -- is July the 3rd at 10:30 p.m.; right?

17 A. Yes.

18 Q. But on Exhibit 3247, the last entry -- and that's
19 just a continuation of those same records; right? 3247, on
20 S. DeMocker?

21 A. I don't understand, I'm sorry.

22 Q. Okay. On Exhibit 3247 --

23 A. Uh-huh.

24 Q. -- Okay. It continues and shows more times after
25 the 10:30 time, which is -- let's see if I can find it --

1 S. DeMocker, 2381 -- what was that? I must have bumped
2 something.

3 On this particular record, it's for the
4 same date, July the 2nd of 2008; right?

5 A. Yes.

6 Q. But it goes till 11:51 p.m.; right?

7 A. Yes.

8 Q. Now, when it says "accept cards," what does that
9 mean?

10 A. Cards are transmitters.

11 Q. Okay. And so, S. DeMocker is admitted back in the
12 Alpine Meadows area at 11:51 p.m. under transmitter 25687;
13 correct?

14 A. Yes.

15 Q. Okay. Let's take a look at 3246 again.

16 Here is S. DeMocker admitted at
17 10:30 p.m. under transmitter 2381; right?

18 A. Yes.

19 Q. I don't see that depicted on Exhibit 3247; do you?

20 A. No.

21 Q. Seems like transmitter 2381 -- here's the 10 --
22 between 10:15 and 11:20 time frame right in here; right?

23 A. Yes.

24 Q. And transmitter 2381 isn't in there; is it?

25 A. No.

1 Q. Do you know why that is?

2 A. I believe that when I was asked for certain
3 numbers and certain time frames, those are the ones that I
4 had done specifically. And that might have been the case
5 here.

6 Q. So this is for transmitter 25687; is that correct?

7 A. Yes.

8 Q. And this one actually covers 2381 in this time
9 frame here; right?

10 A. Yes.

11 Q. As well as 25687 in this time frame here?

12 A. Yes.

13 Q. But this -- but Exhibit 3246 does not go past the
14 time of 10:30 p.m.?

15 A. Right.

16 Q. Whereas, 3247 actually goes to 11:51 p.m.;
17 correct?

18 A. Yes.

19 Q. Okay. That's why I got it messed up. Let's just
20 see -- but still -- this one goes to 11:51 p.m. on July the
21 2nd. This one goes to 10:30 p.m. on July the 3rd, but let's
22 just see -- I was looking for the 10:30 transactions for
23 2381. They are not in this time frame; are they?

24 A. No.

25 Q. And yet they do appear on Exhibit 3247 for the

1 10:15 to 11:30 time frame?

2 A. Yes.

3 MR. BUTNER: Okay. Thank you.

4 No further questions.

5 THE COURT: Ms. Chapman, do you have any
6 follow-up?

7 MS. CHAPMAN: Briefly, Your Honor.

8 FOLLOW-UP QUESTIONS

9 BY MS. CHAPMAN:

10 Q. Looking at 3247, which is on the overhead, you
11 said that these gate codes 2381, which is registered to
12 Mr. DeMocker, is indicated and 2567, which is registered to
13 Mr. DeMocker, is also indicated; is that right?

14 A. Yes.

15 Q. So both of those gate codes or key code access
16 devices are indicated on 3247?

17 A. Yes.

18 Q. And you said that you were asked to look for
19 specific key code access devices, and that's what you did.
20 So, this isn't inclusive of every resident of the country
21 club, just of the ones that you were asked to look for?

22 A. Yes.

23 Q. Okay. And, then, with respect to 3246, we also
24 show entry codes for both of the key codes or key access
25 devices that were issued to Mr. DeMocker's household; is that

1 right?

2 A. Yes.

3 Q. 2381 -- 02381 and 25687?

4 A. Yes.

5 Q. And you don't know who was using which of these
6 key codes on these dates; is that right?

7 A. No.

8 MS. CHAPMAN: Thank you.

9 No further questions, Your Honor.

10 THE COURT: Thank you.

11 Counsel, may Miss Bush be excused as a
12 witness?

13 MR. BUTNER: She may.

14 MS. CHAPMAN: Yes, Your Honor.

15 THE COURT: Ma'am, you will be excused as a
16 witness at this time, but the Rule of Exclusion of Witnesses
17 has been invoked. It has been invoked, and it applies in
18 this case. This means that you cannot communicate in any way
19 with other witnesses about your testimony or about any other
20 aspect of this case until all witnesses have testified. It
21 is best that you not discuss this case with anyone until the
22 trial is completed. However, you may talk to the attorneys
23 about the case as long as no other witnesses are present.

24 Do you understand?

25 THE WITNESS: Yes.

1 THE COURT: Thank you.

2 You are excused at this time. Please
3 watch your step.

4 THE WITNESS: Thank you.

5 THE COURT: The State may call its next
6 witness.

7 MR. BUTNER: Thank you, Judge.

8 I would like to call Tommy Meredith to
9 the stand.

10 THE COURT: Okay. Sir, if you would please
11 stand where the bailiff indicates, and, then, raise your
12 right hand and be sworn by the clerk.

13 THE CLERK: You do solemnly swear or affirm
14 under the penalty of perjury that the testimony you are about
15 to give will be the truth, the whole truth, and nothing but
16 the truth, so help you God?

17 THE WITNESS: Yes.

18 THE COURT: Please be seated here to my left.

19 Sir, could you please start by stating
20 and spelling your full name.

21 THE WITNESS: Tommy L. Meredith, T-O-M-M-Y,
22 M-E-R-E-D-I-T-H.

23 THE COURT: Thank you.

24 Mr. Butner.

25 MR. BUTNER: Thanks, Judge.

1 TOMMY L. MEREDITH,
2 called as a witness, having been duly sworn, testified as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. BUTNER:

6 Q. Good morning, Mr. Meredith.

7 A. Good morning.

8 Q. Sir, what is your occupation?

9 A. Real estate and hospitality, generally speaking.

10 Q. Are you a real estate broker and an agent?

11 A. Yes, sir, a broker.

12 Q. Broker. Okay. And, then, hospitality -- what is
13 the nature of your hospitality business?

14 A. Jersey Lilly Saloon.

15 Q. All right. You own the Jersey Lilly Saloon right
16 down there on Whiskey Row?

17 A. Yes, sir.

18 Q. Okay. How long have you been involved in the real
19 estate business, first of all?

20 A. 41 years.

21 Q. And, then, how long have you owned the Jersey
22 Lilly?

23 A. 10 years.

24 Q. And where do you presently reside?

25 A. 8800 North Live Oak Drive, 86305.

1 Q. Okay. So, you don't live in the area of the
2 Hassayampa Country Club anymore?

3 A. No longer, no.

4 Q. When did you reside at the Hassayampa Country Club
5 area?

6 A. I moved out approximately two years ago, and I was
7 there four or five years.

8 Q. And what was your address when you resided at the
9 Hassayampa Country Club?

10 And you could move that microphone away
11 from your mouth just a little.

12 A. I need all I can get. 1716 -- I think it was
13 Alpine Meadows Lane. And I was in 1402.

14 Q. And you lived there how many years?

15 A. I lived in 1402 a couple of years, and, then, I
16 lived in another unit prior to that for a couple of years.

17 Q. And during the time that you were residing at unit
18 number 1402, was Steven DeMocker your neighbor?

19 A. Yes, sir.

20 Q. And, so, were you residing in that particular unit
21 on July the 2nd of the year 2008?

22 A. Yes, sir.

23 Q. Do you remember that particular date?

24 A. I don't remember it by the date itself. I
25 remember the day we're talking about.

1 Q. And you were contacted by the police about that
2 date; is that correct?

3 A. I was interviewed one morning after I recognized a
4 lot of activity.

5 Q. Okay. And, then, let's refer to the date of July
6 the 2nd of the year 2008. Do you recall coming home sometime
7 in the evening hours of July the 2nd of the year 2008?

8 A. Yes, sir.

9 Q. Approximately what time did you get home on that
10 date?

11 A. I'm guessing 9:30, ten o'clock.

12 Q. And when you came home that particular date, would
13 you describe for us what you encountered as you entered the
14 Alpine Meadows condominium development?

15 A. Well, I came home, like you would any normal
16 night, and there was a car ahead of me. No big thing.
17 Didn't take that into consideration as being unusual.

18 Q. Do you remember what kind of car it was?

19 A. I have no idea. It was a white car, to me.

20 Q. Okay.

21 A. And when it pulled into the building 1402 where I
22 live, obviously I took notice wondering who it might be --
23 which neighbor. And -- continue?

24 Q. You may.

25 And did it pull into a particular garage?

1 A. Yes.

2 Q. Whose garage did it pull into?

3 A. It pulled into Steve's garage, and I just made a
4 comment to my wife. I said, "well, that's unusual." And she
5 said, "what do you mean?" And I said, "the garage door
6 almost beat the car into in garage."

7 Q. What was unusual about that?

8 A. Steve was very open about his garage. He came and
9 went. Did a lot of exercising -- golf. His garage door was
10 open a lot, and I just never remember it closing almost as
11 fast as he got in there. I just made a comment that it was
12 very unusual.

13 Q. So it closed right behind the car as it pulled in;
14 is that what you are saying?

15 A. It was about eight inches off the floor when I
16 drove by into my garage.

17 Q. And you were right behind it?

18 A. Yes, sir.

19 Q. And when you get into your development, the
20 condominium development there at the Hassayampa Country Club,
21 do you have to use some sort of a device in order to get
22 through the security system?

23 A. Yes. It is a gated community, and you do have to
24 have a clicker to get in.

25 Q. And did you use your clicker on that particular

1 date?

2 A. I'm sure I must have. I don't think I was close
3 enough -- I may have been close enough to the car in front of
4 me to pass without having to use it. I can't recall that.

5 Q. Okay. And, again, your recollection of the time
6 was 9:30, ten o'clock, sometime in the evening?

7 A. Yes. And I'm not -- obviously knowing the year,
8 the day and keeping time on it, but that would be my best
9 guess, yes.

10 Q. Okay. Were you able to tell who was driving the
11 white car that pulled into Mr. DeMocker's garage?

12 A. No, sir.

13 Q. Were you able to see any other vehicles in
14 Mr. DeMocker's garage that were there before that white car
15 got in?

16 A. No, sir. The garage door was almost shut by the
17 time I got into the parking area there.

18 Q. If you had actuated your clicker in order to get
19 in through the gate, would that be the most accurate time for
20 you arriving at your residence?

21 A. If it was kept, yes, sir, it would be. Uh-huh.

22 Q. Okay. If you would look over your shoulder there,
23 Mr. Meredith, do you see -- this is Exhibit 3247, for the
24 record -- on the overhead projector, do you see these
25 particular entries on this document?

1 A. Yes, sir.

2 Q. Okay. We've already had testimony this morning
3 from the lady who is the records custodian for these records,
4 and she indicated that these are the records for the
5 actuation of gate codes at the Hassayampa Country Club for
6 the date -- and you will see the date -- of July the 2nd of
7 the year 2008.

8 Do you see that?

9 A. Yes, sir.

10 Q. Okay. And do you see your name in those
11 particular entries?

12 A. Yes, sir.

13 Q. Okay. In fact, do you recognize that particular
14 gate code, 51458, as being yours? Or did you even know that
15 number?

16 A. No. I had no idea.

17 Q. You didn't have any idea what your number was?

18 A. No, sir.

19 Q. Okay. All right.

20 In any event, it shows an entry for
21 you -- and I'll just show you -- 10:16 p.m. on July the 2nd
22 of 2008, shows T. Meredith admitted through "relay one."
23 Okay.

24 Do you see that particular entry?

25 A. Yes, sir.

1 Q. Okay. And, then, just below that -- and actually
2 ahead of it in time, but at the same time -- on July 2nd of
3 the year 2008, it shows an entry for clicker number 02381,
4 S. DeMocker, at "relay one" on 10:16 p.m. of July 2nd, 2008.

5 Do you see that?

6 A. Yes, sir.

7 Q. Okay. Does that sound about right, as to the time
8 that you got there and went into the Alpine Meadows
9 condominium project on July 2nd of 2008?

10 A. That seems to back up my recollection pretty well.
11 Yes.

12 MR. BUTNER: Okay.

13 I don't have any further questions of
14 this witness at this time.

15 THE COURT: Thank you.

16 Ms. Chapman.

17 CROSS-EXAMINATION

18 BY MS. CHAPMAN:

19 Q. So, Mr. Meredith, your recollection is consistent
20 with you coming back to your home about 10:16 in the evening
21 on July 2nd; is that right?

22 A. Yes, ma'am.

23 Q. And you saw a white car entering Mr. DeMocker's
24 garage sometime after that, but briefly after that; is that
25 right?

1 A. Yes, ma'am.

2 Q. And you didn't take note of the license plate on
3 the car?

4 A. I had no reason to.

5 Q. And you didn't take note of the make of the car;
6 is that right?

7 A. White.

8 Q. Okay. And did you know that Mr. DeMocker's
9 daughter, Charlotte DeMocker, lived with him at the
10 residence?

11 A. I know that they did at certain times. They came
12 and went a little bit, I think, as I recall.

13 Q. Sure.

14 And do you know what color Charlotte
15 DeMocker's car was?

16 A. Seemed like they liked white and silver, maybe. I
17 don't know, but that's the only colors I remember. White was
18 big time with them.

19 Q. So, you remember a white car?

20 A. That would be my recollection. In the dark, ahead
21 of me, it was my feeling it was white.

22 Q. And did you also say that you remember that
23 Mr. DeMocker may have had a silver car in the garage at
24 times?

25 A. As I recall, yes.

1 Q. I'm going to show you what's been marked, but not
2 yet been admitted as Exhibit 3248. Take a look at that.

3 A. (Whereupon, the witness reviews a document.)

4 Q. Could that have been the car that you saw entering
5 the garage that night? Does that car look familiar to you?

6 A. If you use the word "could," it could. However,
7 by the time I got to the garage door, it was like eight
8 inches off the ground, and that was somewhat ahead of me as I
9 was approaching the building. So, I couldn't tell you if it
10 was a BMW or Toyota, and I know they drove both.

11 Q. So, you couldn't say for sure whether that was the
12 car that you saw?

13 A. No, sir -- no ma'am.

14 Q. So, you are fairly certain it was a white car and
15 not a silver car?

16 A. If you asked me, that's what I would have said,
17 yes.

18 Q. And you didn't see who got out of the car?

19 A. No, ma'am.

20 Q. And you didn't see if there were passengers in the
21 car?

22 A. No, ma'am.

23 Q. And you didn't see whether there was another car
24 in the garage?

25 A. No, ma'am.

1 MS. CHAPMAN: Okay. Thank you.

2 I have no further questions.

3 THE COURT: Thank you.

4 Mr. Butner, redirect?

5 MR. BUTNER: Just a little bit, Judge.

6 REDIRECT EXAMINATION

7 BY MR. BUTNER:

8 Q. Just to clarify, Mr. Meredith, had you followed
9 Mr. DeMocker into the condominium project on any previous
10 occasions?

11 A. Not knowingly, no.

12 Q. Had you observed Mr. DeMocker pull into his garage
13 with his vehicle on any previous occasions?

14 A. Oh, I'm sure of that. Yes.

15 Q. And was he in the habit of having the garage door
16 go down right behind his vehicle?

17 MS. CHAPMAN: Objection, Your Honor. Outside
18 the scope of cross.

19 THE COURT: Sustained.

20 BY MR. BUTNER:

21 Q. Had you ever observed Mr. DeMocker's garage door
22 go down this quickly behind his vehicle before?

23 MS. CHAPMAN: Same objection, Your Honor.

24 THE COURT: Sustained.

25 MR. BUTNER: Okay.

1 Q. So your recollection is that in this particular
2 occasion, if I understood what your testimony was, the garage
3 door closed quickly and was only eight inches above the floor
4 as you pulled in behind it?

5 A. That's correct.

6 Q. Had you ever seen that happen before?

7 MS. CHAPMAN: Same objection, Your Honor.
8 That would be the third time.

9 THE COURT: Sustained.

10 MR. BUTNER: No further questions.

11 THE COURT: Ladies and gentlemen, do you have
12 questions for this witness? Do I have any hands? I don't
13 see any.

14 May this witness be excused, Mr. Butner?

15 MR. BUTNER: He may.

16 MS. CHAPMAN: Yes, Your Honor, he may.

17 THE COURT: Okay. Mr. Meredith, you may be
18 excused as a witness at this time. I want to make sure that
19 you understand the Rule of Exclusion of Witnesses applies in
20 this case. This means that you cannot communicate in any way
21 with other witnesses about your testimony or about any other
22 aspect of this case until all witnesses have testified. It
23 is best that you not discuss this case with anyone until the
24 trial is completed. However, you may talk to the attorneys
25 about the case as long as no other witnesses are present.

1 Do you understand?

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you.

4 You are excused. Please watch your step
5 when you step down.

6 THE WITNESS: Thank you.

7 THE COURT: Mr. Butner, might this be a good
8 time for morning recess?

9 MR. BUTNER: It would be, Judge. That would
10 be fine.

11 THE COURT: Okay. Thanks.

12 Then, ladies and gentlemen, we will go
13 ahead and take the morning recess at this time. Please
14 remember the admonition, and please be back in the jury room
15 at twenty till. So, we've got twenty minutes past. The
16 parties shall remain for just a moment.

17 Thank you.

18 (Whereupon, the jury exits the courtroom.)

19 (Brief recess.)

20 (Whereupon, the jury enters the courtroom.)

21 THE COURT: The record will show the
22 presence of the Defendant, all of the attorneys, and the
23 jury.

24 Mr. Butner you may call your next
25 witness.

1 MR. BUTNER: Judge, before I call my next
2 witness, just a kind of a housekeeping matter. I have in my
3 hand Exhibit No. 567, which is the Prescott Youth Hockey
4 Association Summer 2008 Referee and Practice Schedule. And
5 the parties have stipulated and agree that this particular
6 exhibit may be admitted into evidence without further
7 testimony or foundation.

8 MS. CHAPMAN: That's correct, Your Honor.

9 THE COURT: Okay. Exhibit 567 is admitted by
10 stipulation.

11 MR. BUTNER: Thank you.

12 The State would call Max Hanson to the
13 stand at this time.

14 THE COURT: Okay. Sir, if you would, please
15 stand where the bailiff indicates, and, then, raise your
16 right hand and be sworn by the clerk.

17 THE CLERK: You do solemnly swear or affirm
18 under the penalty of perjury that the testimony you are about
19 to give will be the truth, the whole truth, and nothing but
20 the truth, so help you God?

21 THE WITNESS: Yes.

22 THE COURT: Please be seated at the witness
23 stand.

24 Sir, would you please begin by stating
25 and spelling your full name.

1 THE WITNESS: Sure. My name is Maxwell
2 Hanson, M-A-X-W-E-L-L, H-A-N-S-O-N.

3 THE COURT: Thank you.

4 Mr. Butner.

5 MR. BUTNER: Thanks, Judge.

6 MAXWELL HANSON,
7 called as a witness, having been duly sworn, testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. BUTNER:

11 Q. First of all, Mr. Hanson, thanks for your
12 patience. I know that you came here once before, and we
13 never managed to get you on the witness stand. Okay.

14 What is your present occupation,
15 Mr. Hanson?

16 A. I am a store manager at Hastings.

17 Q. Is that Hastings Bookstore?

18 A. And Entertainment, yes.

19 Q. Okay. Is that the full name; Hastings Bookstore
20 and Entertainment?

21 A. There's no Bookstore. Well, there is a bookstore,
22 but it's Hastings Entertainment.

23 Q. Hastings Entertainment. Okay.

24 A. Correct.

25 Q. And which store do you manage?

1 A. The one here in Prescott.

2 Q. And would you describe for us your duties as the
3 store manager.

4 A. A little bit of everything; managing, hiring,
5 working register, running departments, goals to increase
6 sales, customer service, everything.

7 Q. How long have you worked at the Hastings
8 Entertainment business in Prescott, Arizona?

9 A. I have been here at the Prescott store for a
10 little over a year.

11 Q. And prior to that time where were you?

12 A. I was at a Hastings store in Canyon City,
13 Colorado.

14 Q. And as the manager of the Hastings store, do you
15 have care, custody, and control of the business records of
16 Hastings -- actually they call themselves Hastings Books,
17 Music and Video; right?

18 A. Oh, yeah, that's what's on the outside of the
19 building, yeah.

20 Q. Okay. So, do you have care, custody, and control
21 of all of the business records of that particular store in
22 your capacity as the manager?

23 A. Yes, I do.

24 Q. Okay. And does that go back for a substantial
25 period of time?

1 A. I have access to anything within the past 18
2 months.

3 Q. And did you use to have access to the period of
4 time including July 2nd of the year 2008?

5 A. There would have been access to that, yes.

6 Q. Okay. In fact, have you reviewed records that
7 were kept by the Hastings Book, Music and Video Store,
8 No. 9851?

9 A. I have reviewed them, yes.

10 Q. Okay. And did you review them in your capacity as
11 the records custodian of that particular store?

12 A. Yes.

13 Q. Let me show you what's been marked as Exhibit
14 No. 566. Would you take a look at that set of documents
15 there -- for the record, you're looking at Exhibit No. 566.

16 Do you recognize that packet of
17 documents?

18 A. I do.

19 Q. And did you used to have, before they were purged,
20 custody, care, and control of the documents in Exhibit 566,
21 in your capacity as manager of the Hastings store here in
22 Prescott, Arizona?

23 A. A manager would have, yes.

24 Q. And did you have custody and control of them?

25 A. I did not for this time period, no.

1 Q. Did you go back and establish that, in fact, those
2 records were kept by Hastings in the ordinary course of their
3 business?

4 A. Yes, they are.

5 Q. And what are those records of?

6 A. Well, the first page here -- well, it looks like
7 they're all numbered Page 1 -- but one on here is for a
8 purchase of some consumables, candy it looks like. And,
9 also, like four movies, four rentals.

10 Q. Four movie rentals?

11 A. Correct.

12 Q. Video rentals, so to speak?

13 A. Correct.

14 Q. Okay. Is that something Hastings does as a
15 regular part of their business?

16 A. Yes, it is.

17 Q. Okay. And, then, what are the other pages of the
18 documents?

19 A. The other pages are all the return transactions
20 for the movies being returned.

21 Q. Okay. And so, are those records of a particular
22 individual renting four movies on the date of July the 2nd of
23 the year 2008?

24 A. Yes. There's a customer name on here for the
25 rentals.

1 Q. And, then, are they also records of the return of
2 those videos on or about that same date?

3 A. Yes. Looks like they're all July 2nd.

4 MR. BUTNER: I would move for admission of
5 Exhibit 566 at this time.

6 MS. CHAPMAN: No objection.

7 THE COURT: 566 is admitted.

8 BY MR. BUTNER:

9 Q. And, then, just to clarify, who is the particular
10 customer in this particular case?

11 A. Looks like his name is James Knapp.

12 Q. And so, Mr. Knapp came into the Hastings store --
13 where is the Hastings store located?

14 A. Off of Willow Creek Road.

15 Q. And he came in on July the 2nd?

16 A. Correct.

17 Q. And rented some videos?

18 A. Yes.

19 Q. Is there a time that he rented those videos?

20 A. Time is 2:53 p.m.

21 Q. And, then -- and what were the videos that he
22 rented?

23 A. The rentals are *Redacted, Harold and Kumar, First*
24 *Sunday and Charlie Bartlett.*

25 Q. *Harold and Kumar, First Sunday?*

1 A. Correct.

2 Q. Is that the name of one video, or is *First Sunday*
3 the name of a video?

4 A. *First Sunday* is the name of a separate video.

5 Q. Okay. So, it's *Harold and Kumar*, then, *First*
6 *Sunday* and then --

7 A. *Charlie Bartlett*.

8 Q. -- *Charlie Bartlett*.

9 And, then, when were the videos returned?

10 A. The other pages have -- *Charley Bartlett* was
11 checked back in at 10:48 p.m. the same day. *Redacted* was
12 returned at 10:48 the same day. *Harold and Kumar* was checked
13 in at 10:48 the same day.

14 Q. Now, in terms of the way that Hastings does
15 business, does that mean that that's the time that the videos
16 were actually returned by the customer?

17 A. No. That's the time the associates were actually
18 able to check them into the system.

19 Q. How are the videos customarily returned by
20 customers?

21 A. We have several places where they can return them.
22 There's an outside drop box where they can be returned.
23 There's a return bin next to the actual entrance doors. And,
24 then, we also have a little return slot, actually next to our
25 front counter.

1 Q. Okay. So the customer could have dropped those
2 videos off in any one of those specific spots?

3 A. Correct.

4 Q. And, then, the time of 10:48 reflects the time
5 when the Hastings employee did something?

6 A. Correct.

7 Q. What did the Hastings employee do?

8 A. Well, they would have taken the movie and went
9 over to one of our rental check-in terminals, and scanned the
10 bar code on the movie to actually check it back into the
11 system.

12 Q. So, in essence, you don't have an exact time as to
13 when the videos were returned?

14 A. Correct.

15 Q. Could have been any time before 10:48 p.m. and, of
16 course, after the time of rental, which was at 2:53 p.m.?

17 A. Correct.

18 Q. Okay. And how are you able to tell that the
19 customer's name was James Knapp?

20 A. The very first page, actually, under the date of
21 July 2nd, 2008, it lists a name as the customer name.

22 Q. Okay. I'm going to put that up on the overhead.

23 For the record, Exhibit 566 -- I'm going
24 to place on the overhead at this time. Okay. Looking at the
25 overhead, Exhibit 566, there's a little laser pointer -- that

1 little black object in front of you, if you would press the
2 button on that. There you go. And -- right -- you're
3 pointing to the customer's name; is that correct?

4 A. Yes, correct.

5 Q. Okay. And that's James Knapp.

6 And, then, the videos that Mr. Knapp
7 rented -- there under the "title" column; is that right?

8 A. Yes, right here.

9 Q. Okay. And one of them says "DVD, *Redacted*." The
10 other says "DVD, *Harold and Kumar*." And the third one says
11 "DVD, *First Sunday*." And then the fourth one says "DVD,
12 *Charlie Bartlett*"; right?

13 A. Yes.

14 Q. And what's that thing up above the "DVD?" What is
15 that?

16 A. That is "consumable candy."

17 Q. Oh, okay. Something about powerful something?

18 A. It looks like "powerful cinnamon."

19 Q. Okay. So, that's a food item that was purchased?

20 A. Correct.

21 Q. And, then, what about down at the bottom? It
22 shows a name, Mr. Knapp; right? On the lower portion there?

23 A. Right here?

24 Q. Yes.

25 A. Yes.

1 Q. And what does that indicate?

2 A. This one looks like it was also a rental check-in
3 result. It just got printed on the same page.

4 Q. I see. Okay.

5 So, it has his rental master I.D. there?

6 A. Yes. That's his account number.

7 Q. A number code for Mr. Knapp?

8 A. Correct.

9 Q. Okay. I'm going to just flip to one of these
10 video returns. You indicated that -- here's one of the video
11 returns that's attached; right?

12 A. Yes.

13 Q. And you were able to tell the identity, name of
14 the movie that was returned?

15 A. Yes.

16 Q. How can you tell that?

17 A. The number that's listed right here.

18 Q. Uh-huh.

19 A. Each individual rental is assigned its own
20 bar code, and that's how we can identify each individual
21 rental.

22 Q. So you looked at the bar codes and knew in
23 advance, when you looked at these records, which was which?

24 A. Correct.

25 Q. Okay. Let's see. For example, *Harold and Kumar*,

1 the return of that particular video is this one; is that
2 correct?

3 A. I'd have to reference the first page again, the
4 last four digits.

5 Q. Okay. That's what I was looking at, too. So
6 here's the first page; right?

7 A. Okay.

8 Q. And you see *Harold and Kumar*; right?

9 A. Correct.

10 Q. And, then, here's the return of *Harold and Kumar*;
11 right?

12 A. Yes. It looks like the last four digits are all
13 3397 for both.

14 Q. Okay. And the date of the return is July 2nd,
15 2008 at 22:48?

16 A. Correct.

17 Q. And who's this person, Kristen Evans?

18 A. That would have been the person that actually
19 checked in the rental.

20 Q. And in terms of the time of the rental
21 transaction, that's the date right there of 7/2/2008 at
22 14:53?

23 A. Correct.

24 Q. Okay. So, that's the time that Mr. Knapp rented
25 these movies?

1 A. Yes.

2 MR. BUTNER: Okay. Thank you.

3 I don't have any further questions of
4 this witness at this time.

5 THE COURT: Thank you, Mr. Butner.

6 Ms. Chapman.

7 MS. CHAPMAN: No questions.

8 Thank you, Mr. Hanson.

9 THE COURT: Ladies and gentlemen, are there
10 jury questions?

11 Mr. Hanson, if you could stay there at
12 the witness stand for a moment. The jurors are allowed to
13 pose questions, and I go over them with the attorneys and
14 some may be asked. So, if you would wait right there.

15 (Whereupon, a discussion was held at side bar.)

16 (Whereupon, the following was held in
17 open court in front of the jury.)

18 QUESTIONS BY THE JURY

19 THE COURT: Mr. Hanson, I will ask these
20 questions and the lawyers may want to follow-up.

21 What type of movies were these?

22 THE WITNESS: Those would have been DVDs.

23 THE COURT: Follow-up, Mr. Butner?

24 MR. BUTNER: None from the State, Judge.

25 MS. CHAPMAN: No, Your Honor. Thank you.

1 THE COURT: Do you have video surveillance
2 that shows Mr. Knapp dropping off the DVDs?

3 THE WITNESS: That I would not have. Our
4 video records surveillance only lasts about 30 to 60 days.

5 THE COURT: Follow-up?

6 MR. BUTNER: None from the State, Judge.
7 Thank you.

8 FOLLOW-UP QUESTIONS.

9 BY MS. CHAPMAN:

10 Q. Mr. Hanson, were you ever requested to provide
11 video surveillance?

12 A. I was not. I was not in charge of the store at
13 the time, though.

14 Q. Do you know if it was ever requested of anyone at
15 Hastings?

16 A. I don't.

17 MS. CHAPMAN: Thank you.

18 THE COURT: Mr. Butner, anything further on
19 that point?

20 MR. BUTNER: No.

21 QUESTIONS BY THE JURY

22 THE COURT: Could Mr. Knapp drop off the DVDs
23 into the drop box at 3:00 p.m. and your employee check it in
24 at the later time?

25 THE WITNESS: It's a possibility. We do have

1 a corporate policy that states we're supposed to check all
2 return locations every 15 minutes. But it is a possibility.

3 THE COURT: Follow-up, Mr. Butner?

4 FOLLOW-UP QUESTIONS

5 BY MR. BUTNER:

6 Q. So, Mr. Hanson, back in July of 2008, there was a
7 corporate policy in effect concerning how often you would
8 check in these videos?

9 A. Correct.

10 Q. And what was that corporate policy, again?

11 A. Is to check the locations every 15 minutes.

12 Q. And when you say "check the locations," what does
13 that mean? What happens?

14 A. It means an associate physically goes to each
15 location, takes out all rentals that have been returned and,
16 then, brings them up to the counter to be checked in and
17 processed.

18 Q. And do you understand the purpose for that
19 particular policy?

20 A. Yes. It's to actually get our returns checked in
21 quicker and back out on the shelves, so that the rentals are
22 back in their locations quicker.

23 Q. So they can be re-rented quicker?

24 A. Yes.

25 MR. BUTNER: Okay. I understand.

1 Thank you.

2 THE COURT: Follow-up.

3 FOLLOW-UP QUESTIONS

4 BY MS. CHAPMAN:

5 Q. When you said that it could be a possibility, is
6 that because that policy wasn't always followed by employees?

7 A. Correct. I mean, during the normal course of a
8 business day -- I mean, things do happen. And sometimes it
9 might go twenty, twenty-five minutes.

10 MS. CHAPMAN: Okay. Thank you.

11 THE COURT: Thank you.

12 May this witness be excused?

13 MR. BUTNER: He may. No, he may not.

14 THE COURT: I am going to try this without a
15 record, but I do need to see at least the two examining
16 attorneys at side bar.

17 (Whereupon, a discussion was held at side bar.)

18 QUESTIONS BY THE JURY

19 THE COURT: I do have a final jury question,
20 Mr. Hanson.

21 That is: Were these DVDs kids movies,
22 comedy, dramas, et cetera?

23 THE WITNESS: *Redacted*, I believe, was a
24 action film. I knew it was supposed to be about some of the
25 on-goings in Iraq. *Harold and Kumar* would have been a

1 comedy. *First Sunday* was a comedy. I'm sorry, what was the
2 other one on there? I know there was four.

3 THE COURT: Mr. Butner, if you could name the
4 exhibit.

5 MR. BUTNER: Exhibit No. 566 -- I will show to
6 the witness at this time, Judge.

7 THE WITNESS: *Charlie Bartlett*, unfortunately,
8 that one I'm not sure on. I believe it was supposed to be a
9 comedy kind of like *Little Miss Sunshine*. I don't know if
10 anyone has seen that.

11 THE COURT: Follow-up, Mr. Butner?

12 FOLLOW-UP QUESTIONS

13 BY MR. BUTNER:

14 Q. *Harold and Kumar*, that's kind of an adolescent
15 type of movie; would you say?

16 A. Yeah.

17 Q. For an adolescent sense of humor; right?

18 A. I think a lot of the people would refer to it as a
19 "stoner" movie.

20 MR. BUTNER: Okay. Okay.

21 No further questions.

22 THE COURT: Ms. Chapman?

23 MS. CHAPMAN: No further questions. Thank
24 you.

25 THE COURT: Now may Mr. Hanson be excused as a

1 witness, Mr. Butner?

2 MR. BUTNER: Yes, he may, Judge.

3 THE COURT: Ms. Chapman?

4 MS. CHAPMAN: He may. Thank you.

5 THE COURT: Mr. Hanson, you will be excused as
6 a witness, but before you step down I want to make sure you
7 understand that the Rule of Exclusion of Witnesses applies in
8 this case. This means that you cannot communicate in any way
9 with other witnesses about your testimony or about any other
10 aspect of this case until all witnesses have testified. It
11 is best that you not discuss this case with anyone until the
12 trial is completed. However, you may talk to the attorneys
13 about the case as long as no other witnesses are present.

14 Do you understand, sir?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Thank you.

17 You are excused. Please watch your step.

18 And, Phil, make a copy for counsel of the
19 final question.

20 Mr. Butner.

21 MR. BUTNER: Thanks, Judge.

22 I would call Ann Saxerud to the stand at
23 this time.

24 THE COURT: Ma'am, if you would, please stand
25 where the bailiff is directing you, and, then, raise your

1 right hand and be sworn by the clerk.

2 THE CLERK: You do solemnly swear or affirm
3 under the penalty of perjury that the testimony you are about
4 to give will be the truth, the whole truth, and nothing but
5 the truth, so help you God?

6 THE WITNESS: Yes.

7 THE COURT: Please be seated here at the
8 witness stand.

9 And would you begin, please, by stating
10 and spelling your full name.

11 THE WITNESS: My name is Ann Margaret Saxerud,
12 A-N-N, M-A-R-G-A-R-E-T, S-A-X-E-R-U-D.

13 THE COURT: Thank you.

14 Mr. Butner.

15 MR. BUTNER: Thanks, Judge.

16 ANN MARGARET SAXERUD,
17 called as a witness, having been duly sworn, testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. BUTNER:

21 Q. Ms. Saxerud, what is your occupation?

22 A. I am a registered nurse.

23 Q. And how long have you been a registered nurse?

24 A. For 30 years.

25 Q. And do you presently reside in Prescott, Arizona?

1 A. Yes.

2 Q. How long have you resided in Prescott, Arizona?

3 A. Since 1978.

4 Q. Are you married at the present time?

5 A. No.

6 Q. Did you used to be married?

7 A. Yes.

8 Q. To whom were you married?

9 A. James Knapp.

10 Q. And how long were you married to Mr. Knapp?

11 A. Twelve years.

12 Q. And did you and Mr. Knapp have children together?

13 A. Yes.

14 Q. How many?

15 A. Two.

16 Q. And would you tell us the name of one of your
17 children, I think he's the youngest?

18 A. Alexander Knapp.

19 Q. And, then, the oldest child, his name also,
20 please?

21 A. Jay Knapp.

22 Q. J-A-Y?

23 A. Yes.

24 Q. Drawing your attention to the time frame back in
25 July of 2008, you and Mr. Knapp -- had you obtained a divorce

1 prior to that time?

2 A. Yes.

3 Q. When did you receive your divorce from Mr. Knapp?

4 A. In January of 2007.

5 Q. And after that divorce, did Mr. Knapp stay in
6 touch with his children?

7 A. Yes.

8 Q. Did you have visitation arrangements?

9 A. Yes.

10 Q. Would you describe for us what those visitation
11 arrangements were with Mr. Knapp?

12 A. We would arrange week-by-week or day-by-day.

13 Q. Can you move that microphone a little closer to
14 you, please? Because -- that's not -- would you move it a
15 lot closer so that the jury and everybody else can hear you,
16 okay?

17 A. Is that better?

18 Q. That is better. We may ask you to move it a
19 little closer, though, you speak rather softly.

20 You said that you arranged the
21 visitation, was it week-by-week?

22 A. Or day-by-day. We had a parenting plan also that
23 we could rely on if we needed it.

24 Q. And did Mr. Knapp stay in close contact with his
25 children?

1 A. Yes.

2 Q. Were his children involved in sports?

3 A. Yes.

4 Q. What sport or sports were they involved in?

5 A. Roller hockey and ice hockey.

6 Q. And who did they play these sports with? Was
7 there an association of some kind?

8 A. Yes.

9 Q. What was that?

10 A. The ice hockey, I believe, is called Junior Sun
11 Dogs, and the roller hockey is the Prescott Youth Hockey
12 Association.

13 Q. And in the summertime are the boys involved in the
14 roller hockey?

15 A. If there's a league going on, yes.

16 Q. Going back to the summer of July of 2008, were the
17 boys, Alexander -- and you call him Alex; don't you?

18 A. Yes.

19 Q. Okay. Were Alex and Jay involved in the Prescott
20 Youth Hockey Association during that summer?

21 A. Yes.

22 Q. And did they have regular practices?

23 A. Yes.

24 Q. Do you recall, basically, what the practices were?
25 The schedule for them?

1 A. One or two nights a week.

2 Q. And where did they practice?

3 A. Pioneer Park.

4 Q. Pioneer Park here in Prescott?

5 A. Yes.

6 Q. In fact, they have kind of a nice roller hockey
7 facility there; right?

8 A. Yes.

9 Q. And drawing your attention to the day of July the
10 2nd of the year 2008, did either of the boys have hockey
11 practice that day?

12 A. Yes.

13 Q. Which one?

14 A. Jay.

15 Q. Let me show you what's already admitted into
16 evidence as Exhibit No. 567.

17 Would you take a look at that, please.

18 Good you've got your glasses with you.

19 A. (Whereupon, the witness reviews a document.)

20 Q. Looking at Exhibit 567, do you see the time frame
21 of July, 2008, depicted on that particular exhibit?

22 A. Yes.

23 Q. Is that, yes?

24 A. Yes.

25 Q. Okay. You've got to move that microphone a little

1 bit closer. Okay. Thank you very much.

2 And does that reflect some practices, or
3 a practice, for Jay on July 2nd of 2008?

4 A. Yes.

5 Q. What time was the practice for Jay on that date?

6 A. Seven o'clock.

7 Q. And did Alex have a practice on that date?

8 A. No.

9 Q. And where did the practice take place?

10 A. Pioneer Park.

11 Q. And was there some sort of visitation arrangement
12 for that day when Jay went to his hockey practice?

13 A. Jim, his dad, was to come and stay with Alex while
14 I took Jay to hockey practice.

15 Q. So, you would take Jay over to the hockey
16 practice, and Jim would stay with Alex?

17 A. Yes.

18 Q. Where would Jim stay with Alex?

19 A. At our house.

20 Q. And could you give us your address, for the
21 record, please, at that time.

22 A. 308 Verde Lane. And that's in Prescott.

23 Q. So, 308 Verde Lane in Prescott, Arizona. Can you
24 give us a general location as to where 308 Verde Lane is
25 located?

1 A. It's off of Gurley, between Country Club and
2 Gurley. So, west of here.

3 Q. Okay. Off of Gurley Street, between Country Club
4 and Gurley?

5 A. Yes.

6 Q. On the date of July the 2nd of the year 2008, did
7 Jim Knapp come by your residence for visitation?

8 A. Yes.

9 Q. And who was he having visitation with on that
10 date?

11 A. Alex.

12 Q. Approximately what time did Jim get there, if you
13 can recall?

14 A. Between -- probably around 6:00 and 6:15.

15 Q. 6:00 or 6:15 in the evening?

16 A. Yes.

17 Q. And was there any significance as to why he
18 arrived at that particular time?

19 A. So Jay could get to practice and get his hockey
20 gear on, to start at 7:00.

21 Q. I see. So, Mr. Knapp was to get there early
22 enough so that you could take Jay to practice?

23 A. Yes.

24 Q. And, then, there's some time to get the gear on,
25 the equipment and so forth; right?

1 A. Yes.

2 Q. Pads and shirt and the whole deal; right?

3 A. Yes.

4 Q. They wear helmets, I assume?

5 A. Yes.

6 Q. Okay. And so, when Jim came to your house on July
7 2nd of 2008, about -- you said 6:00 to 6:15; right?

8 A. Yes.

9 Q. Did you note anything out of the ordinary about
10 that?

11 A. No.

12 Q. And did Jim have a good relationship with his
13 boys?

14 A. Yes.

15 Q. They were close?

16 A. Yes.

17 Q. And what did they do when Jim would visit with the
18 boys on these types of occasions? Was there anything of
19 significance or any kind of regular activity they engaged in?

20 A. They liked to watch movies.

21 Q. On this particular date, on July 2nd of 2008, do
22 you recall if Mr. Knapp brought anything with him for
23 visitation?

24 A. I don't remember.

25 Q. So you don't remember if he brought any movies or

1 anything like that?

2 A. I don't remember.

3 Q. Did you have any previous knowledge as to where
4 Mr. Knapp got the movies that he watched with the boys when
5 he came for visitation?

6 A. No.

7 Q. You just recall that he had done that on previous
8 occasions?

9 A. Yes.

10 Q. So, Mr. Knapp arrived at 6:00 to 6:15, and that's
11 the time that you and Jay left; right?

12 A. Yes.

13 Q. And how long were you gone?

14 A. We got home between 8:30 and 9:00.

15 Q. 8:30 and 9:00 p.m.?

16 A. Yes.

17 Q. And when you got home between 8:30 and 9:00 p.m.,
18 where was Jim Knapp?

19 A. At our house.

20 Q. He was at your residence at Verde Lane?

21 A. Yes.

22 Q. What was he doing when you got there?

23 A. I don't remember.

24 Q. You just recall he was there?

25 A. Yes.

1 Q. Do you recall where he was located in your
2 residence when you got home?

3 A. No.

4 Q. And where was Alex?

5 A. At our house.

6 Q. So they were both there together?

7 A. Yes.

8 Q. Anybody else present at the residence at that
9 time?

10 A. No.

11 Q. Had you given either of your boys any instructions
12 in terms of what should happen while they were being visited
13 by their father?

14 A. I am not sure --

15 Q. I guess what I'm asking is: Had you ever given
16 them any instructions that they should let you know if their
17 father ever left while he was there watching them?

18 MR. SEARS: Leading.

19 THE WITNESS: No.

20 THE COURT: Overruled.

21 BY MR. BUTNER:

22 Q. Okay. So would you clarify your answer to my
23 question?

24 A. No.

25 Q. No, you had never given them such instructions?

1 A. No.

2 Q. Had you ever received any information that Jim
3 Knapp had left the boys while he was supposedly there
4 visiting them?

5 MR. SEARS: Foundation as to time.

6 THE COURT: Sustained.

7 MR. SEARS: Move to strike.

8 THE COURT: That's granted. Answer is
9 stricken.

10 BY MR. BUTNER:

11 Q. Had you ever conducted any little investigation on
12 your own to make sure that Mr. Knapp stayed with the boys
13 when you thought he was visiting them at your residence?

14 A. No.

15 Q. So, basically you just trusted Mr. Knapp to stay
16 with the boys?

17 A. Yes.

18 Q. And so, you got home about 8:30 or nine o'clock
19 p.m.

20 Do you recall how Mr. Knapp was dressed
21 on this particular day?

22 A. In the summer he wore shorts, T-shirts and
23 flip-flops.

24 Q. On a regular basis?

25 A. Yes.

1 Q. Was there any significance to the kinds of shorts,
2 T-shirts and flip-flops that he wore? Anything special about
3 Mr. Knapp concerning his clothes?

4 A. He had lots of surfing T-shirts.

5 Q. And why was that?

6 A. That was one of his pastimes.

7 Q. He was a surfer?

8 A. Yes.

9 Q. Would it be fair to say that he just loved to
10 surf?

11 A. Yes.

12 Q. Loved it? Everything about it?

13 A. Yes.

14 Q. Did he own surfboards?

15 A. Yes.

16 Q. And did he own a skateboard?

17 A. Yes.

18 Q. Did he own all kinds of pictures and paraphernalia
19 associated with the sport of surfing?

20 A. Yes.

21 Q. Did he share that with his sons?

22 A. Yes.

23 Q. That was a passion for him?

24 A. Yes.

25 Q. Do you know how he came by that passion?

1 A. He grew up in Southern California and began
2 surfing as a little boy.

3 Q. And so, do you know where Mr. Knapp went after he
4 left your residence at approximately 8:30, nine o'clock on
5 July the 2nd of the year 2008?

6 A. No.

7 Q. Have I asked you to take a look at a video from
8 the Safeway store on Willow Creek Road?

9 A. Yes.

10 Q. Did you take a look at that video?

11 A. Yes.

12 Q. And did you see anybody in that video that you
13 recognized?

14 A. Jim.

15 Q. Jim Knapp?

16 A. Yes.

17 MR. BUTNER: Okay. This video is admitted
18 into evidence at this time, Judge, and I ask permission of
19 the Court to show the video so that the witness can identify
20 Mr. Knapp as she has previously testified?

21 THE COURT: Okay. It has been admitted.

22 MR. SEARS: 2001? Is that the exhibit number,
23 Your Honor?

24 THE COURT: Mr. Butner, if you could provide
25 that, please.

1 MR. SEARS: This may be one in which we had no
2 objection to foundation.

3 MR. BUTNER: Here it is, 3001.

4 MR. SEARS: We show that as being admitted,
5 Your Honor.

6 THE COURT: That was an exhibit where I made
7 the ruling that the foundation had been supplied for the
8 exhibit. Meaning, there may be some type of objection as to
9 content.

10 Mr. Sears?

11 MR. SEARS: Could be, Your Honor. We'd have
12 to hear a bit more, I think, from this witness if it's going
13 to be offered through her, I suppose.

14 THE COURT: There is foundation as to where
15 the exhibit was made. There is testimony as to that.

16 So, Mr. Sears, what is the nature of the
17 objection?

18 MR. SEARS: I think for now not knowing
19 exactly what's being offered, I would say relevance.

20 THE COURT: Do you have a legal response to
21 the relevance objection that has been stated?

22 MR. BUTNER: It's relevant to show where
23 Mr. Knapp was on July the 2nd at the times depicted in the
24 video, Judge.

25 THE COURT: And you have it?

1 MR. BUTNER: We have it cued up for that
2 particular time.

3 THE COURT: Overruled.

4 You may display that.

5 MR. BUTNER: Thank you.

6 I have the technical wizard with me to
7 operate this. I can't do it.

8 Q. Drawing your attention to what's depicted on the
9 overhead projection there, Ms. Saxerud, and for the record,
10 this is a portion of Exhibit 3001, the time frame being --
11 starting at 20:58 hours, 2-0-5-8, on July 2nd of the year
12 2008.

13 Do you recognize that person just walking
14 in?

15 A. Jim Knapp.

16 Q. And is he dressed as you have described him in the
17 past?

18 A. Yes.

19 Q. And how's he dressed, just for the record?

20 A. Shorts, T-shirt and flip-flops.

21 MR. SEARS: Your Honor, we have no objection
22 if the State wants to fast-forward a couple of minutes to get
23 to Mr. Knapp again.

24 THE COURT: Mr. Butner, if you can do that.

25 MR. BUTNER: Okay. We'll move it forward

1 about a minute.

2 (Whereupon, a recording was played and not reported.)

3 BY MR. BUTNER:

4 Q. What time is it at, now? We're at 21 -- okay --
5 20:59. Okay. We're moving it forward to 21:02. 21:02:04 is
6 where we're at right now, Judge, for the record.

7 And do you recognize who is depicted in
8 the video, now?

9 A. Jim Knapp.

10 Q. And the time at this point is 21:02:19, on July
11 the 2nd of the year 2008, on the video; is that correct? Do
12 you see the time there?

13 A. Yes.

14 Q. Pardon?

15 A. Yes.

16 Q. And what time is that?

17 A. 21:02.

18 Q. Thank you very much.

19 Do you have any recollection of Mr. Knapp
20 ever leaving Alex home alone during the time that he had
21 visitation with Alex?

22 A. No.

23 Q. Would that have caused you great concern had he
24 done that?

25 A. It would depend on the length of time.

1 Q. But to your knowledge, he never did that?

2 A. No.

3 MR. BUTNER: No further questions of this
4 witness at this time.

5 THE COURT: Thank you, Mr. Butner.

6 Ladies and gentlemen, we will take the
7 noon recess at this time, and, Ms. Saxerud, you may recess
8 as well.

9 I do want to make sure you understand
10 that the Rule of Exclusion of Witnesses has been invoked in
11 this case. This means that you cannot communicate in any way
12 with other witnesses about your testimony or about any other
13 aspect of this case until all witnesses have testified. It
14 is best that you not discuss the case with anyone until the
15 trial is completed. However, you may talk to the attorneys
16 about the case as long as no other witnesses are present.

17 Do you understand?

18 THE WITNESS: Yes.

19 THE COURT: Okay. We will take the noon
20 recess.

21 Ladies and gentlemen, please be back at
22 1:20. We will start as soon as we can after that. I am
23 going to ask that the parties remain, and also the media
24 representatives as well.

25 Thank you.

1 (Whereupon, the jury exits the courtroom.)

2 (Whereupon, a discussion was held in
3 open court out of the presence of the jury.)

4 (Whereupon, a recess was taken at 12:01 p.m.
5 to resume at 1:20 p.m. of the same day.)

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SEPTEMBER 8, 2010
1:26 P.M.

(Whereupon, the jury enters the courtroom.)

THE COURT: The record will show the presence of the Defendant, all of the attorneys, and the jury.

The witness, Miss Saxerud, has returned to the witness stand. She has been sworn for all testimony in this case.

Mr. Butner, had you completed your direct?

MR. BUTNER: Yes, I had, Judge. Thank you.

THE COURT: Mr. Sears, you may proceed with follow-up.

MR. SEARS: Thank you, Your Honor.

MR. BUTNER: Judge, I had, but I had one exhibit I wanted to offer, which would make it a little easier for the jury. Exhibit 3249 is just the front and last view on that video, showing Mr. Knapp coming in and exiting.

MR. SEARS: No objection, Your Honor.

THE COURT: Exhibit 3249 is admitted.

MR. BUTNER: Thank you.

CROSS-EXAMINATION

BY MR. SEARS:

Q. Good afternoon, ma'am.

A. Hi.

1 Q. I just have a few questions for you this
2 afternoon.

3 My understanding is you were first
4 contacted by a sheriff's detective about the 6th of July,
5 several days after Carol Kennedy was killed. Is that your
6 recollection?

7 A. I don't remember.

8 Q. Okay. Do you remember eventually sitting down and
9 having an interview at the sheriff's office on Gurley Street
10 on July 31st of 2008 with Detective Brown?

11 A. And Alex, or just me?

12 Q. This would be the long interview with just you.
13 He wanted to talk to Alex, but --

14 A. Yes.

15 Q. -- he was just talking to you. Do you remember
16 that?

17 A. Yes.

18 Q. Okay. And do you remember telling Detective Brown
19 that you were somewhat surprised that it had taken so long
20 for them to contact you because you assumed that people would
21 want to know where Jim was; correct?

22 A. Yes.

23 Q. Okay. And did he have an explanation as to why it
24 took him so long?

25 A. I don't remember.

1 Q. Okay. But that was curious to you; right?

2 A. Yes.

3 Q. Because you figured that just because Jim lived so
4 close to where Carol was found, at a minimum he would be
5 somebody the police would want to talk to; correct?

6 A. And they had spoken to him, yes.

7 Q. And was it your understanding that Jim told them
8 that, which you've said here, that he was watching your son
9 Alex on the night and at about the time that Carol Kennedy
10 was killed?

11 A. Yes.

12 Q. Okay. Now, you said, I think, your divorce from
13 Mr. Knapp was final in 2007, early 2007. Is that right?

14 A. Yes.

15 Q. And you talk about this parenting plan. Can you
16 tell us a little bit about that, what it was.

17 A. What would you like to know?

18 Q. Well, did either of you have lawyers representing
19 you in the divorce?

20 A. We went through Gil Shaw, who is an attorney, and
21 I believe it was "mediated" is what it was called.

22 Q. Okay. And you and Jim Knapp reached an agreement
23 about a number of things relating to the job of parenting
24 your sons; correct?

25 A. We had a parenting plan through Mr. Shaw.

1 Q. Okay. And that parenting plan was an agreement
2 that was presented to the Court; correct?

3 A. Yes.

4 Q. Okay. And among the things that that parenting
5 plan called for was an agreement that neither of you would
6 drive the children in a car if you were under the influence
7 of alcohol or drugs or impaired; correct?

8 MR. BUTNER: Objection. Hearsay.

9 THE COURT: Overruled.

10 MR. BUTNER: Relevance.

11 THE COURT: Sustained.

12 MR. SEARS: Okay.

13 Q. You have told the police on a number of times, and
14 you've told me in a deposition in this case, that one of the
15 problems in your marriage with Jim Knapp was his addiction to
16 prescription drugs; correct?

17 MR. BUTNER: Objection. Relevance.

18 MR. SEARS: Your Honor, I think that relates
19 to a matter that is going to be posited by this Court, and
20 the Court understands what that relevance would be.

21 THE COURT: Sustained.

22 BY MR. SEARS:

23 Q. In your opinion, did Mr. Knapp have an addiction
24 to prescription drugs?

25 MR. BUTNER: Objection. Relevance.

1 THE COURT: Sustained.

2 BY MR. SEARS:

3 Q. On July 2nd, 2008, Mr. Knapp was not allowed to
4 drive your children in an automobile; was he?

5 MR. BUTNER: Objection. Relevance.

6 THE COURT: Overruled.

7 THE WITNESS: Could you repeat that, please.

8 MR. SEARS: Could I have it read, Your Honor?

9 THE COURT: You may.

10 Roxanne.

11 (Whereupon, the relevant record was read back.)

12 THE WITNESS: No.

13 BY MR. SEARS:

14 Q. And that was because of your belief that he had
15 relapsed with respect to his prescription drug addiction;
16 correct?

17 MR. BUTNER: Objection. Relevance.

18 THE COURT: Sustained.

19 BY MR. SEARS:

20 Q. What was the reason that Mr. Knapp was not allowed
21 to drive your children on July 2, 2008?

22 MR. BUTNER: Objection. Relevance.

23 THE COURT: Sustained.

24 MR. SEARS: I have no other questions.

25 THE COURT: Redirect.

1 MR. BUTNER: None, Your Honor. Thank you.

2 THE COURT: Any questions for this witness,
3 ladies and gentlemen?

4 Counsel, side bar. I don't believe a
5 record will be necessary.

6 I have another jury question. Let me see
7 that.

8 Ma'am, if you would please remain seated
9 while I go over the jury questions with the attorneys.

10 (Whereupon, a discussion was held at side bar.)

11 QUESTIONS BY THE JURY

12 THE COURT: Miss Saxerud, the questions are
13 the same, and here is the question: How old were your
14 children on July 2, 2008?

15 THE WITNESS: 13 and 12.

16 THE COURT: Thank you.

17 Any follow-up with either of the
18 attorneys on that question?

19 JUROR NO. 4: I'm sorry, could you clarify if
20 Alex or Jay --

21 THE COURT: One specific question did break it
22 down: How old was Alex and Jay, July, 2008?

23 You gave the ages. Could you name the
24 children with the age, please?

25 THE WITNESS: Jay was 13, and actually Alex

1 would be 11, sorry.

2 THE COURT: Thank you.

3 Any follow-up?

4 MR. BUTNER: No follow-up, Judge. Thank you.

5 THE COURT: Okay. Miss Saxerud, you will be
6 excused at this time as a witness, however, you are not
7 excused permanently as a witness just for today. You are
8 subject to recall, so you need to remember that the Rule of
9 Exclusion of Witnesses applies in this case. This means that
10 you cannot communicate in any way with other witnesses about
11 your testimony or about any other aspect of this case until
12 all witnesses have testified. It is best that you not
13 discuss this case with anyone until the trial is completed.
14 However, you may talk to the attorneys about the case as long
15 as no other witnesses are present.

16 Do you understand that?

17 THE WITNESS: Yes.

18 THE COURT: Thank you. Please watch your step
19 when you step down.

20 MR. BUTNER: Judge, could we approach for a
21 moment because we have an issue about that in light of the
22 fact that this witness has not been excused and is subject to
23 recall.

24 THE COURT: Yes.

25 Ladies and gentlemen, again, please feel

1 free to stand and stretch while I have a side bar.

2 Miss Saxerud, if you will just have a
3 seat there in the Court at this time. Remember the
4 admonition, of course, during the recesses and all other
5 times.

6 I do need a record on this.

7 Thank you.

8 (Whereupon, a discussion was held at side bar.)

9 THE COURT: Ladies and gentlemen, I do have to
10 take up a legal matter, and I don't want to keep just having
11 these side bars, so we are going to need to take an unplanned
12 recess. Please be ready to come back in in about ten
13 minutes. We will be in recess. Thank you. Remember the
14 admonition.

15 (Whereupon, the jury exits the courtroom.)

16 (Brief recess)

17 (Whereupon, the jury enters the courtroom.)

18 THE COURT: The record will show the presence
19 of the defendant, all of the attorneys, and the jury.

20 Mr. Butner.

21 MR. BUTNER: Thank you, Judge.

22 I'd like to call Alex Knapp to the stand.

23 THE COURT: Alex, if you would please stand
24 where the bailiff, the gentleman right there, asks you to
25 stand, and if you will face the clerk, the lady here to my

1 right, raise your right hand and be sworn.

2 THE CLERK: You do solemnly swear or affirm
3 under the penalty of perjury that the testimony you are about
4 to give will be the truth, the whole truth, and nothing but
5 the truth, so help you God?

6 THE WITNESS: Yes.

7 THE COURT: Please have a seat over here.

8 Mr. Butner.

9 MR. BUTNER: Thanks, Judge.

10 ALEXANDER KNAPP,
11 called as a witness, having been duly sworn, testified as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. BUTNER:

15 Q. How old are you, Alex?

16 A. 13 years old.

17 Q. And in what grade are you?

18 A. Eighth grade.

19 Q. And do you understand that you just took an oath?

20 A. Yes.

21 Q. And do you know what an oath is?

22 A. Kind of.

23 Q. Okay. What was your understanding when you raised
24 your right hand there and took that oath?

25 A. Promise to tell the truth.

1 Q. No matter what?

2 A. Yeah.

3 Q. All right. So are you going to tell the truth no
4 matter what the questions are in this case?

5 A. Yes.

6 Q. Okay. Thank you.

7 Your mother's name is Ann Saxerud; right?

8 A. Yes.

9 Q. And what was your dad's name?

10 A. Jim Knapp.

11 Q. And did you love your dad?

12 A. Yes.

13 Q. Would you lie for your dad?

14 A. No.

15 Q. I want to ask you to kind of go back in time,
16 basically a couple of years ago to July of 2008. Okay? Do
17 you remember that?

18 A. Yes. To a certain extent.

19 Q. Okay. I understand.

20 Do you remember the summer of 2008? What
21 you were doing back in the summer?

22 A. Not really too well.

23 Q. Well, do you remember being involved in any
24 sports?

25 A. Yeah, hockey.

1 Q. What kind of hockey were you involved in back in
2 the summer of 2008?

3 A. I think just recreational "Inline."

4 Q. Okay. Is that rollerblade hockey?

5 A. Yes.

6 Q. And where did you play the rollerblade hockey at?

7 A. Pioneer Park.

8 Q. Okay. And did your brother also play hockey?

9 A. Yes.

10 Q. Okay. What's your brother's name?

11 A. Jay Knapp.

12 Q. Is he your older brother?

13 A. Yes.

14 Q. How much older than you is Jay?

15 A. Like three years, I think.

16 Q. Well, you're 13 now; right?

17 A. Yeah.

18 Q. How old is Jay? Do you know?

19 A. Almost three years, like maybe two and
20 three-fourths.

21 Q. Okay. So is Jay 15?

22 A. Almost 16.

23 Q. Okay. So two years ago, then, Jay was 13 and you
24 were 11; right?

25 A. Yes.

1 Q. And your parents, were they divorced back in July
2 of 2008?

3 A. Yes.

4 Q. And did your dad have visitation?

5 A. Yes.

6 Q. Do you recall when your dad would come and visit
7 you? Were there special times?

8 A. Not really. Just sometimes when like my mom would
9 leave me home alone.

10 Q. Okay.

11 A. Or just when my mom wanted to go on a bike ride.

12 Q. Okay. And was your brother playing hockey back in
13 July of 2008, also?

14 A. Yeah.

15 Q. Was he playing in the Prescott Youth Hockey
16 Association?

17 A. I believe so.

18 Q. So that's the same kind of hockey, rollerblade
19 hockey, out at Pioneer Park?

20 A. Yes.

21 Q. Do you play with pads and equipment and all of
22 that?

23 A. Yes.

24 Q. Did your brother have hockey practice back in
25 those days?

1 A. Yes.

2 Q. What would happen when your brother went to hockey
3 practice?

4 A. My mom would take him out there, and that's
5 usually when my dad came over.

6 Q. And then your dad would come over to your house
7 and stay with you?

8 A. Yeah. Or, I think, my grandma would sometimes
9 come over.

10 Q. Okay. Well, do you remember a time back in July
11 of 2008, right around the first part of July, July 2nd of
12 2008, when your dad came over and stayed with you at your
13 mother's house?

14 A. Yes.

15 Q. Did your dad bring movies with him sometimes?

16 A. He loved movies.

17 Q. Okay. And would you watch movies with him?

18 A. Yeah.

19 Q. So this time that I'm talking about on July 2nd of
20 2008, do you remember your dad coming over to your house and
21 bringing some movies to watch with you?

22 A. Yeah.

23 Q. Was this when your brother was going to hockey
24 practice?

25 A. Yeah.

1 Q. Do you remember what movies your dad brought with
2 him?

3 A. *Harold and Kumar White Castle*, I think.

4 Q. How was it that you were able to remember *Harold*
5 *and Kumar White Castle*?

6 A. It was a funny movie.

7 Q. Okay. And did you watch that movie with your dad?

8 A. Yes.

9 Q. And where were you when you watched the movie with
10 your dad?

11 A. In the living room.

12 Q. In the living room at your mother's house?

13 A. Yes.

14 Q. And that's your house, too; right?

15 A. Yeah.

16 Q. Do you know the address there?

17 A. 308 Verde Lane.

18 Q. So that's 308 Verde Lane here in Prescott; right?

19 A. Yeah.

20 Q. And did your dad stay there the whole time with
21 you and watch the movie?

22 A. Yes.

23 Q. To your recollection, to your remembrance, did
24 your dad ever leave while you were there that day with him
25 watching *Harold and Kumar White Castle*?

1 A. No.

2 Q. And when I say "ever leave," I mean did he leave
3 when your mother came home?

4 A. Yes.

5 Q. Did he ever leave before your mother came home?

6 A. No.

7 Q. Do you remember what time your mother came home
8 that day?

9 A. Maybe 9:00.

10 Q. And this was after hockey practice was over?

11 A. Yeah.

12 Q. Is that when your dad left, then?

13 A. Yeah.

14 MR. BUTNER: Okay. Alex, I don't have any
15 further questions. Thank you very much.

16 THE WITNESS: Okay.

17 THE COURT: Thank you, Mr. Butner.

18 Mr. Sears.

19 MR. SEARS: No questions, Your Honor.

20 THE COURT: Ladies and gentlemen, any
21 questions for Alex? I don't see any.

22 May Alex be excused as a witness,
23 Mr. Butner?

24 MR. BUTNER: He may, Judge.

25 THE COURT: Mr. Sears?

1 MR. SEARS: Yes.

2 THE COURT: Alex, you will be excused as a
3 witness. There is kind of a fancy term for a rule that has
4 been invoked in this case. It is called the Rule of
5 Exclusion of Witnesses, but here is what it really means: It
6 just means that until this trial is over, you can't talk
7 about the case or testimony with any other witness.

8 Do you understand what I am saying?

9 THE WITNESS: Yes.

10 THE COURT: You can't do that. You are a
11 witness in this matter, so you can't talk to other witnesses.
12 You can talk to the lawyers, though, if other witnesses are
13 not around when that happens. Okay? Do you understand?

14 THE WITNESS: Yes.

15 THE COURT: Okay. And I am sure the lawyers
16 can help you out with that, too, if you have any questions
17 about that.

18 Please watch your step when you step
19 down, some people miss that.

20 THE WITNESS: Thanks.

21 THE COURT: Mr. Butner.

22 MR. BUTNER: Judge, we're checking to see if
23 my next witness is here. We've been moving a little faster
24 than we had anticipated. If I could have just a moment.

25 (Brief interruption.)

1 MR. BUTNER: My next witness isn't here yet,
2 Judge. Could we have a few minutes?

3 THE COURT: I don't know what else we would
4 do, so we need to recess until the witness is here.

5 Of course, please remember the
6 admonition, ladies and gentlemen. We will start as soon as
7 we can.

8 Thank you.

9 (Whereupon, the jury exits the courtroom.)

10 (Brief recess.)

11 (Whereupon, the jury enters the courtroom.)

12 THE COURT: The record will show the presence
13 of the defendant, Mr. Sears, Miss Chapman and Mr. Butner is
14 representing the State. Mr. Paupore is present, and the jury
15 is present.

16 Mr. Butner, please call your next
17 witness.

18 MR. BUTNER: Thanks for your patience, Judge.
19 I would call Detective Edgerton to the stand.

20 THE COURT: Detective, if you would please
21 stand where the bailiff directs you, and raise your right
22 hand and be sworn by the clerk.

23 THE CLERK: You do solemnly swear or affirm
24 under the penalty of perjury that the testimony you are about
25 to give will be the truth, the whole truth, and nothing but

1 the truth, so help you God?

2 THE WITNESS: I swear to God.

3 THE COURT: Please be seated in the witness
4 stand.

5 Ma'am, would you please start by stating
6 and spelling your full name.

7 THE WITNESS: Pam E-D-G-E-R-T-O-N.

8 THE COURT: Thank you.

9 Mr. Butner.

10 MR. BUTNER: Thank you, Judge.

11 PAMELA EDGERTON,
12 called as a witness, having been duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. BUTNER:

16 Q. What is your occupation?

17 A. I'm a detective with Yavapai County Sheriff's
18 Office.

19 Q. And how long have you been a detective with the
20 Yavapai County Sheriff's Office?

21 A. Approximately ten years.

22 Q. That's as a detective; right?

23 A. Yes, sir.

24 Q. And before being a detective, or becoming a
25 detective, were you serving in some other capacity with the

1 Yavapai County Sheriff's Office?

2 A. Yes. I worked patrol on the roads for about four
3 years prior to that.

4 Q. So you have been with the Yavapai County Sheriff's
5 Office approximately 14 years, all total?

6 A. Approximately.

7 Q. Okay. I can do that kind of math.

8 All right. Would you describe for us the
9 training that you've had to prepare yourself for your duties
10 as a Yavapai County Sheriff's officer?

11 A. Generally, started at the academy. Did 16 or 20
12 weeks at the academy, police academy, and from there it's
13 just been -- we have ongoing training.

14 As a detective, I have a lot more
15 training than I used to on the roads, but it just kind of
16 runs the gamut. A lot of training in interviewing. I do
17 specifically, mostly, sex crimes and child crimes, so I've
18 had hundreds of hours of training in that -- but just about
19 anything. I'm a life-long learner, so lots of training.

20 Q. And you said 16 to 20 weeks in the police academy.
21 What academy did you attend?

22 A. I attended Phoenix Regional Academy.

23 Q. And have you had any formal education, so to
24 speak, prior to the time that you became a deputy with the
25 Yavapai County Sheriff's Office?

1 A. I have a bachelor's and a Master's in elementary
2 education.

3 Q. And where did you get your degrees from?

4 A. Arizona State for my bachelor's, and Northern
5 Arizona for my Master's.

6 Q. So you have -- is that a -- so it's a Bachelor's
7 in Education from ASU?

8 A. Correct.

9 Q. Elementary Ed; right?

10 A. Yes, sir.

11 Q. And then your Master's is from where?

12 A. Northern Arizona University.

13 Q. NAU. And when did you graduate from ASU?

14 Tell the truth, now --

15 A. 1986, I believe.

16 Q. -- I'm just kidding.

17 1986. Okay.

18 And when did you get your Master's from
19 NAU?

20 A. That is a little harder. I worked on the Master's
21 while I was teaching, so I would just estimate probably about
22 1992, '91, '92.

23 Q. Okay. And where were you teaching at that time?

24 A. At Camp Verde elementary and middle school.

25 Q. How many years did you teach at that?

1 A. About seven and a quarter.

2 Q. Seven and a quarter?

3 A. Approximately.

4 Q. That last quarter must have been a tough one?

5 A. It was while I was waiting to get into the
6 academy.

7 Q. Oh, okay. All right. And if I understand your
8 description of your duties, you started out and did four
9 years of patrol and then you became a detective; right?

10 A. Yes.

11 Q. Have you always specialized in sex crimes and
12 child crimes?

13 A. Yes, pretty much.

14 Q. But do you get involved in the investigation of
15 other offenses, also?

16 A. Yes. We have only about 15 detectives or so, so
17 on major crimes, most, if not all of us are called out.

18 Q. And have you had any special training, or training
19 that you specifically recall, that is applicable in a way to
20 the investigation of general crimes?

21 A. I believe the beginning of my stint in criminal
22 investigations, I had a general -- I think it was a 40-hour,
23 one-week long investigations -- criminal investigations
24 class, which is kind of an overall evidence collecting, all
25 of that.

1 Q. Okay. And have you investigated other kinds of
2 crimes in addition to sex crimes and child crimes while
3 you've been a detective?

4 A. Oh, yes.

5 Q. What kinds of cases have you worked on, not
6 counting the present case that you're here on?

7 A. I've done paper -- let's see how would you
8 describe it, fraud type crimes. I've done -- I've assisted
9 on some burglaries. Several other homicides. Gosh, a lot of
10 internet crimes.

11 Q. So you've been working also doing general
12 detective-type work in addition to your specialized area of
13 sex crimes and child crimes?

14 A. Correct.

15 Q. And now, drawing your attention to this particular
16 case, do you recall the date of July the 2nd of the year
17 2008?

18 A. Yes. I believe it was the day before I was called
19 out on this crime.

20 Q. Okay. So when were you actually called out for
21 this particular investigation concerning the death of
22 Virginia Carol Kennedy?

23 A. Well, actually, I received a call somewhere in the
24 middle of the night. I was busy working on another scene at
25 the time, but I went home, got a few hours of rest, and then

1 came back out on July 3rd, not until probably about 10:00 or
2 eleven o'clock in the morning.

3 Q. So you were actually involved in the investigation
4 of another crime when you first were called about this?

5 A. No. It was an off-duty situation, traffic control
6 type of thing.

7 Q. Okay. And then, when did you first respond to
8 perform any duties in connection with the investigation of
9 the death of Virginia Carol Kennedy?

10 A. I believe I arrived on scene in the Prescott area
11 around eleven o'clock in the morning.

12 Q. Around 11:00 a.m. on July the 3rd of the year
13 2008?

14 A. Yes, sir.

15 Q. Okay. And when you say "you arrived on scene in
16 the Prescott area," where are you talking about arriving at?

17 A. Bridle Path. The residence on Bridle Path.

18 Q. Okay. So the residence out at 7485 Bridle Path?

19 A. Yes, sir.

20 Q. And just in a general sense, would you describe
21 for us where that was located?

22 A. I work the Verde, the Camp Verde area, and so I
23 kind of get confused with the -- usually, if I have an
24 address in Prescott, I'll look at the map and drive to it. I
25 believe it's out -- I think I went down Prescott Parkway or

1 something like that, out to maybe Willow Creek and then
2 headed north.

3 Q. So it's out north of Prescott proper?

4 A. Yes.

5 Q. Okay. Do you recall the main road that you went
6 out on to get to Bridle Path?

7 A. I don't off the top of my head.

8 Q. Okay. How does Williamson Valley Road sound to
9 you?

10 A. It was either Williamson Valley or Willow Creek,
11 so Williamson Valley is possible.

12 Q. All right. And you indicated that you thought
13 that you arrived at that scene at approximately what time?

14 A. I believe it was around eleven o'clock in the
15 morning.

16 Q. And when you first arrived there, what did the
17 particular location look like, the Bridle Path location?
18 What was going on there when you got there?

19 A. There were several vehicles out there, marked and
20 unmarked. There was police tape surrounding the area.
21 Nothing other than vehicles. There were vehicles all over
22 the place.

23 Q. Had you received any kind of a briefing before you
24 arrived?

25 A. I had not, other than what was told to me on the

1 phone.

2 Q. Okay. What was your understanding as to what type
3 of situation you were encountering when you arrived at the
4 Bridle Path address?

5 A. I was going to assist in a search warrant and
6 investigation on a dead body that appeared to be a homicide.

7 Q. And had you been provided with the name of the
8 victim at that time?

9 A. Yes.

10 Q. Did you have an understanding as to how this dead
11 body situation had come to the attention of the Yavapai
12 County Sheriff's Office?

13 A. I think I got most of that information once I was
14 on scene.

15 Q. And who did you get information from once you
16 arrived at the scene?

17 A. I don't recall exactly who. There were four to
18 six other investigators there. I remember meeting -- or
19 standing around with several of the investigators on the back
20 porch and just discussing what the situation was.

21 Q. Who were the investigators that you were
22 discussing the situation with?

23 A. Oh, let's see. I believe my Sergeant Dan Winslow
24 was there; another Sergeant, Luis Huante; my partner Shonna
25 Willingham was there; Detective Doug Brown was there; and two

1 or three evidence people.

2 Q. And was this in preparation for executing a search
3 warrant at that residence?

4 A. Yes.

5 Q. So you were on the back porch of the Bridle Path
6 residence discussing that situation?

7 A. Yes.

8 Q. And did you have some duties that you were
9 assigned to perform in connection with the execution of the
10 search warrant?

11 A. Not specifically. As I said, we were kind of
12 standing there discussing the situation and somebody was
13 writing the search warrant, so we were waiting to go into the
14 house to serve the search warrant.

15 Part of the discussion included that
16 there were some dogs, and the dogs had been taken to another
17 location, so I suggested, or volunteered, said that I would
18 like to go track down the dogs and get some information about
19 that.

20 Q. Okay. And so did you track down the dogs?

21 A. Yes.

22 Q. Where did you go?

23 A. Just down the block a little ways. About three or
24 four houses down to Jan Drake's residence.

25 Q. And what were your duties in connection with

1 tracking down these dogs?

2 A. Well, I understood that there had been two dogs at
3 the residence, and that at some point they had been removed
4 and taken to a neighbor's house. And given what the inside
5 looked like and the amount of blood in at least one room, I
6 wanted to go find the dogs and see if there was any blood on
7 them. If they had been -- to be able to tell whether they
8 had been in the house at the time, or gone in and out of that
9 room, or had any blood on them.

10 Q. Okay. So you went down to Jan Drake's house?

11 A. Yes.

12 Q. And when you went down to Jan Drake's house, what
13 did you do?

14 A. Well, I was going to go and make contact with
15 Ms. Drake. The dogs, I wasn't sure how many there were. I
16 knew the two dogs were there from Carol Kennedy's house. I
17 wasn't sure if there were more dogs, but there was a lot of
18 barking when I walked up, so I just kind of eased my way --
19 honestly, I'm not even sure if I got into the driveway or if
20 Ms. Drake came out to meet me because of all the barking.

21 Q. And when you say "all the barking," I mean, were
22 there dogs running around barking at you?

23 A. I heard the barking first, but then when I got
24 around to what looked like the entrance, up the driveway, up
25 towards the house, then I could see. I believe I only saw

1 two dogs, just Carol's two dogs.

2 Q. Would you describe the two dogs that you saw for
3 us?

4 A. There's a small white one. I think it's -- I'm
5 not sure how you pronounce it, but a little Bichon Frise.
6 I'm not sure how you pronounce the second part.

7 Q. Okay.

8 A. And then a black and white one. A kind of a short
9 hair, looked like a Boxer-type dog to me.

10 Q. Okay. And when you say "a Boxer," that's a big
11 dog?

12 A. It was kind of small. Bigger than the Bichon, but
13 it wasn't a huge dog, no.

14 Q. Approximately how dog -- "how dog" -- how tall did
15 the little black -- did the black and white dog stand?

16 A. I'm going to say, maybe a foot and a quarter.

17 Q. And then the Bichon -- I think it's Bichon Frise,
18 I think --

19 A. Okay.

20 Q. -- How big was that dog?

21 A. Under a foot.

22 Q. And this black and white dog looked kind of like a
23 Boxer?

24 A. I'm not an expert on dogs, but I believe it was
25 some type of Boxer. It could have been a full Boxer, but it

1 looked like it had some Boxer characteristics about it.

2 Q. So you saw these dogs when you went to the
3 residence?

4 A. Yes.

5 Q. They were out in the yard?

6 A. Yes.

7 Q. And what did you do?

8 A. I made contact, as I said, with Ms. Drake and told
9 her that I was there and would like to inspect the dogs, if I
10 could, just to see if there was any type of evidence on them.

11 Q. And were you allowed to do that?

12 A. Yes.

13 Q. So tell us, which dog did you inspect first?

14 A. The Bichon, the little white one. And Ms. Drake
15 said that the black and white one may be a little bit more
16 difficult because he was not as friendly as the Bichon. So
17 I -- the Bichon was real friendly, jumping up on me. I
18 picked him, or her, up and just kind of looked around.
19 Looked underneath. Looked on the paws. I didn't see any
20 indication, any discoloration, any blood, anything that
21 looked like the dog was stained in any way.

22 Q. Okay. So you were specifically looking for blood
23 or that type of evidence on the dog?

24 A. Yes.

25 Q. And found none?

1 A. Correct.

2 Q. And did you ask any questions about where the dog
3 had been?

4 A. I did.

5 Q. And did you find out where the dog had been?

6 A. Well, I asked if she had bathed them in any way,
7 to make sure that she hadn't gotten bloody dogs and washed
8 them off. She said she hadn't bathed them in any way, but
9 they had been running around in the yard and at one point the
10 sprinkler was on a little bit. So she said that the dogs had
11 been running around, and the yard was wet, but that there was
12 no bathing.

13 Q. And then, in regard to the little black and white
14 dog, did you manage to catch up with him, or her?

15 A. All I could do was look at that one. He was
16 standing pretty close to me so I was able to look at, you
17 know, the top and the sides. But he wouldn't get close
18 enough to let me pick him up, so I couldn't actually look
19 underneath him.

20 Q. And couldn't look at the bottoms of his paws or
21 anything like that?

22 A. Right.

23 Q. Did you see any signs of blood or blood type
24 evidence on the little black and white dog?

25 A. No.

1 Q. So after inspecting the dogs, what did you do?

2 A. I spoke with Ms. Drake for a little while. She
3 seemed to have information that she wanted to give so I spoke
4 with her, and then went back to the residence, Carol
5 Kennedy's residence.

6 Q. And did anybody follow-up on the information that
7 Ms. Drake had provided?

8 A. Yes. She had --

9 Q. What was the follow-up on the information that
10 Ms. Drake provided?

11 A. Well, there was a neighbor that had supposedly
12 seen Carol running that night, and so when I gave that
13 information to one of the detectives on scene, I was told
14 that that neighbor had already been contacted and spoken
15 with.

16 There were some paper documents that
17 Ms. Drake gave me. I handed those to one of the detectives
18 on scene. I can't remember exactly who I gave them to.

19 Q. And do you know what the subject matter of the
20 paper documents was?

21 MR. SEARS: Calls for hearsay.

22 THE COURT: Sustained.

23 BY MR. BUTNER:

24 Q. Do you know why Ms. Drake gave you the paper
25 documents?

1 MR. SEARS: Speculation.

2 THE COURT: That is a yes or no. She can
3 answer if she can.

4 THE WITNESS: Yes.

5 BY MR. BUTNER:

6 Q. Did you do any follow-up as a result or have
7 somebody else do follow-up as a result of receiving the paper
8 documents?

9 A. Yes.

10 Q. What was the follow-up that was done?

11 A. I don't personally know because I wasn't involved
12 in it, but as I said, I gave the documents to one of the
13 other detectives on scene. I believe it was the case agent,
14 and there was follow-up on those as well as other things
15 relating to it.

16 Q. Do you know what the follow-up was on those
17 documents?

18 MR. SEARS: Calls for hearsay. Speculation.
19 No percipient knowledge.

20 MR. BUTNER: Yes or no question, Judge.

21 THE COURT: That is a yes or no. I'm just
22 trying to think where it might go from there, but you may
23 answer that if you can, yes or no.

24 THE WITNESS: Yes, I believe I do.

25 MR. BUTNER: Okay.

1 Q. Did you engage in any of the follow-up?

2 A. No, I did not.

3 Q. Did you observe anybody do any of the follow-up?

4 A. No, I did not.

5 Q. After taking care of the dog situation, what did
6 you do?

7 A. I went back to the residence and by that time, or
8 shortly, I think, they had already received the search
9 warrant and had entered the house. And so then, I assisted
10 with searching the residence and collecting evidence.

11 Q. And by assisting in the search warrant, what were
12 your duties in connection with that?

13 A. Basically, I was assisting in the one room where
14 the body was and looking for and examining and collecting
15 evidence that was there.

16 Q. And before entering the house, did you take any
17 precautionary measures?

18 A. Yes. The first time I was there I put on the
19 little booties, over your shoes, to make sure you don't track
20 anything in. I believe when I left, I took them off. When I
21 came back, I put another set on before going back in the
22 house.

23 Q. And in addition to putting on booties, did you
24 take any other precautionary measures?

25 A. I had latex gloves on.

1 Q. And did you wear those at all times while were you
2 inside the crime scene?

3 A. Yes.

4 Q. Is that standard practice?

5 A. Yes.

6 Q. So tell us, you went into the crime scene and
7 assisted in the search warrant. You indicated that you
8 primarily were assisting in the room where the body was
9 located; right?

10 A. Yes.

11 Q. Tell us what you did in that room.

12 A. I just kind of did a very in-depth visual, looking
13 around for any clues, any evidence, anything that might be
14 there that would help to determine what happened. There were
15 pieces of furniture that were in disarray, blood all over,
16 and so just kind of looking around for anything;
17 fingerprints, items that didn't belong in the scene, looking
18 at the way the furniture was arranged to determine -- try to
19 determine how it got that way. Was it placed there? Was it,
20 you know, did it fall there?

21 Q. Let's go step by step, okay. First of all, you
22 said you did a very in-depth visual. Basically, was that a
23 visual assessment of the scene?

24 A. Yes.

25 Q. And you noted -- the first thing you told us was

1 that the furniture was in disarray?

2 A. Yes.

3 Q. Would you describe what kind of disarray the
4 furniture was in, please.

5 A. There were several bookcases. It appeared some of
6 them might have been empty or almost empty, but then there
7 were one or two that actually had things on them. And they
8 were laid like either -- like they had fallen over, or had
9 been pushed over, and were laying up against a chair or
10 caddy-corner against a wall, that kind of thing.

11 Q. Do you recall the number of bookcases present in
12 the crime scene, or do you need a photo to help refresh your
13 recollection?

14 A. It would be an estimate without a photo.

15 Q. In addition to the bookcases in disarray, what
16 other items of furniture did you note in the scene?

17 A. Well, there were a couple of chairs that -- the
18 chairs didn't seem to necessarily be out of place. There
19 was, what I believe from my recollection, I believe like a
20 ladder. Almost kind of a decorative ladder, not like a metal
21 ladder from outside, but a ladder that matched the furniture
22 and was supposed to be in the room.

23 And that was, apparently -- there's a
24 loft in there, and it appeared the ladder belonged to go up
25 into the loft, but it was completely sideways and laying

1 either on the ground or, I think, it was actually kind of
2 leaning up against one wall, opposite from where it appeared
3 it should have been. There was a desk, computer.

4 Q. Okay. And what did you do in connection with the
5 bookcases that were in disarray, if anything?

6 A. I didn't really do anything specifically with the
7 bookcases, other than look at them and examine them, try to
8 determine -- there was blood on most of the walls, most of
9 the furniture, and looking at them very closely to try and
10 determine which way the blood spatter was coming from and
11 that type of thing.

12 MR. SEARS: Foundation. 702. Move to strike.

13 MR. BUTNER: She has not offered any opinions
14 in that regard, Judge, and I'm not going to ask her for any
15 opinions in that regard.

16 THE COURT: Overruled.

17 MR. BUTNER: Thank you.

18 It may be, Judge, that we'll have to
19 setup the screen for some of the photographs, but I'm trying
20 to steer clear of that.

21 Let me show you what's been marked as
22 Exhibit 2333 already admitted into evidence. And for the
23 record, I'm placing that on the overhead projector at this
24 time.

25 Q. Do you recognize what's depicted in Exhibit 2333?

1 A. Yes, I do.

2 Q. And what is that?

3 A. I believe that's three different bookshelves. I
4 believe one's on the ground, and one is laying up against the
5 other one, but standing.

6 Q. And then is that the way that the scene appeared
7 to you when you first entered it?

8 A. Part of it, yes.

9 Q. And are those the bookcases that you looked at for
10 blood splatter?

11 A. Yes.

12 Q. Let me show you Exhibit 2332 on the overhead
13 projector.

14 Do you recognize what's depicted in this
15 particular photograph?

16 A. Yes, I do.

17 Q. What is that?

18 A. It's the room, slash, office where the body was
19 found.

20 Q. And where was the ladder located when you first
21 saw it?

22 A. I believe -- it's out of the picture -- it would
23 be completely to the right.

24 MR. BUTNER: Judge, I'm going to have to ask
25 that the screen be put up at this point in time. I can't

1 show any other pictures until we get there.

2 THE COURT: Mr. King, if you would help in
3 that process.

4 MR. BUTNER: Thank you.

5 Q. Okay. Let me show you -- can you see that screen?

6 A. Yes, sir.

7 Q. Okay. I'll try to move out of the way wherever I
8 happen to be.

9 Let me show you what's admitted into
10 evidence as Exhibit 2327. Let me just make sure. Yeah.

11 Do you see what's depicted in
12 Exhibit 2327?

13 A. Yes.

14 Q. Is that the way the scene looked when you entered
15 the scene?

16 A. Yes.

17 Q. The ladder in the photograph, is that where it was
18 when you arrived at the scene?

19 A. Yes.

20 Q. Did you examine the ladder?

21 A. I looked at it and examined it for evidence.

22 Q. Pardon?

23 A. I looked at it and examined it for evidence, yes.

24 Q. Did you find anything when you examined the
25 ladder?

1 A. I believe there were traces of blood on it.

2 Q. Do you know? Do you remember?

3 A. I don't recall for sure on that, on the ladder.

4 Q. All right. Let me show you what's been admitted
5 into evidence as Exhibit 2331.

6 Is this another view of that same scene?

7 A. Yes, it is.

8 Q. And what's depicted in that particular photograph?

9 A. It's one of the bookshelves.

10 Q. And is the body in that photograph?

11 A. Yes.

12 Q. And how did you enter the room? What way did you
13 go into the room?

14 A. I think I entered from both sides. The first time
15 I was there, I believe, after being on the porch, I came in
16 through the door that's shown there, which goes to the
17 outside. There's another door on this wall that you can't
18 see and that comes from the rest of the house. At one point,
19 I entered from the front door of the house, and at that time
20 I would have come through the door that you can't see there.

21 Q. Did you do a walk-through inspection of the scene
22 before you went back to execute the search warrant?

23 A. Yes, I did.

24 Q. And when you did the walk-through inspection, did
25 you go up the hallway and inspect the scene from that

1 direction?

2 A. I believe the first time I was in there on the
3 walk-through is when I -- I know the walk-through was done
4 prior to the actual search, for me anyway, and that would
5 have been when I was on the part -- out of the picture where
6 you can't see; the hallway, the living room and the kitchen.

7 Q. Let me show you what's been admitted into evidence
8 as Exhibit No. 2330.

9 Do you recognize what's depicted in that
10 particular exhibit?

11 A. Yes, I do.

12 Q. What is that?

13 A. It's a picture of the office with Carol Kennedy's
14 body on the ground. One of the bookshelves laying against
15 the other, and then the ladder leaning against the wall.

16 Q. Okay. And do you see a doorway frame in the
17 foreground of this photograph?

18 A. Yes.

19 Q. Is that the doorway from the hall?

20 A. Yes. The one closest to the camera.

21 Q. And did you enter the scene through that
22 particular doorway?

23 A. At one point or another I did, yes.

24 Q. In looking at the ladder, did you note anything of
25 significance about the direction of the steps on the ladder?

1 MR. SEARS: Leading.

2 THE COURT: Overruled.

3 THE WITNESS: It was just completely out
4 of -- leaning on the wrong wall, and it appeared to be upside
5 down is what it looked like.

6 BY MR. BUTNER:

7 Q. Would you describe what you mean by that?

8 A. Like, I thought that it should have been the other
9 way around. Leaning on the other wall, and the end that's up
10 possibly should have been down.

11 Q. And what caused you to think that?

12 A. Just the way it was in such disarray, and the
13 stairs themselves. I don't know how it's exactly supposed to
14 look, I never saw it where it was supposed to be, but it just
15 looked to me like that wasn't the way you were supposed to
16 put a ladder.

17 Q. Let me show you what's been admitted into evidence
18 as Exhibit No. 2329.

19 Do you recognize what's depicted in that
20 particular exhibit?

21 A. Yes.

22 Q. What is that?

23 A. It is another view of the same office. The body
24 on the left there on the ground. The desk with the computer
25 is on the right. Ladder is in the background there.

1 Q. And is this the way the scene looked when you
2 began to execute the search warrant there?

3 A. Yes. This is before anything was disturbed or
4 moved.

5 Q. And what were your duties in regard to evidence
6 that's depicted in these photographs?

7 A. I'm not sure I understand the question.

8 Q. Well, did you scrutinize some of the objects that
9 are depicted in the photographs?

10 A. Yes. I tried to scrutinize the entire office.

11 Q. And did you begin to execute the search warrant
12 after doing that?

13 A. Yes.

14 Q. What did you do to execute the search warrant?

15 A. I collected several items of evidence.

16 Q. Okay. Did you have a particular area of focus in
17 the office where you were collecting items?

18 A. Most of my focus was kind of where this picture
19 is. Since I have done a lot of computer crimes and that
20 type, I tend to go more towards the desk area, computers and
21 that type of thing. I might be more careful just because of
22 the training I've had, reference computers and anything
23 related to, so I kind of try to stay in that area.

24 Q. Okay. Referring to the desk area, were there any
25 items on the desk area that you seized pursuant to the search

1 warrant?

2 A. Yes.

3 Q. What?

4 A. I seized the calendar that's right in the middle
5 of the desk there.

6 Q. Okay. There's a laser pointer right in front of
7 you. If you could use that to demonstrate.

8 A. Okay. The desk calendar there, I took that.

9 Q. For what reason did you seize the desk calendar?

10 A. Well, mostly, I believe, because -- and it's tough
11 to see in this picture -- there is a -- somewhere on this
12 desk calendar there is a, basically, just one big drop of
13 blood, and it seemed to be out of place. And that's the main
14 reason I wanted to take that calendar.

15 Q. So did you believe that desk calendar to be an
16 item, then, of evidentiary value as a result of that?

17 A. Yes.

18 Q. And was that kind of evidence encompassed within
19 the search warrant?

20 A. Yes.

21 Q. How so?

22 A. We were -- the search warrant included any trace
23 evidence, any blood, any -- I'm not sure how it was phrased,
24 but blood, I think, any DNA matter. It definitely fell
25 within the blood and the trace evidence.

1 Q. Okay. And that was identified as what exhibit
2 number? Do you recall?

3 A. I do not.

4 It was a five hundred series, I know
5 that.

6 MR. BUTNER: I need the first search warrant.
7 I think that's seven -- 794.

8 Q. When you execute a search warrant, do you prepare
9 certain items of documentation in connection with the
10 execution of the warrant?

11 A. Prepare the search warrant itself or --

12 Q. No. While you're executing the search warrant, do
13 you prepare certain items of documentation?

14 A. We have what's called "search warrant
15 supplements," which are three- or four-page carbon-type
16 instruments that have the address, the time, the date and
17 then the lines for different items that are seized. Plus,
18 who it was that found it, the time that it was found, and on
19 the bottom of the sheet, who the collect -- the recorder,
20 basically the person writing down what you found, and that
21 person's name, badge number, that type of thing.

22 Q. Okay. Let me show you what's admitted into
23 evidence already as Exhibit No. 794.

24 Do you recognize this particular exhibit?

25 A. Yes. That's the search warrant from which I was

1 working.

2 Q. Okay. And then, I'm flipping through the pages
3 here and I've gotten to some documents identified, basically
4 saying "page one of five," et cetera. Do you see that?

5 A. Yes.

6 Q. Okay. Do you recognize what's on that document?

7 A. Yes. That's one of our search warrant supplement
8 forms.

9 Q. And is it one that you were involved in the
10 preparation of?

11 A. Yes.

12 Q. How were you involved in the preparation of that
13 particular search warrant supplement form?

14 A. Well, basically I was just -- I was the "finder,"
15 and I was listed on the bottom as the "finder." And as for
16 the writing and stuff, I was not the scribe or recorder, as
17 it were, so I didn't actually write anything on this form.
18 But I was -- I'm listed as the person who found certain
19 items.

20 Q. Okay. And in connection with this particular
21 search warrant form, what was the first item of evidence that
22 you seized as a "finder" in the search warrant?

23 A. I seized a four gigabyte flash drive, jump drive,
24 one of the little things that you can put documents or any
25 kind of storage on this and then transfer between computers.

1 Q. And where did you find that particular object?

2 A. That was on the desk next to the printer, which
3 would have been -- the printer, I believe -- it's kind of
4 hard to see in this picture -- but I believe this area is the
5 printer and so the jump drive, the flash drive, would have
6 been right around here.

7 Q. Okay. And so you seized that particular object.

8 What was the next item that you seized in
9 connection with the search warrant?

10 A. The desk calendar right there.

11 Q. And you already explained why you seized the desk
12 calendar; right?

13 A. Yes.

14 Q. In addition to the desk calendar, did you seize
15 anything else in the area of the desk?

16 A. Yes. I seized a camera, a little digital camera,
17 and I believe that's it right there. It's kind of hard to
18 see, but I think that's the strap of the camera, and that's
19 the camera itself.

20 Q. Okay.

21 A. I seized some documents.

22 Q. Okay. Let's go slowly, though, one at a time.

23 Okay. In regard to the jump drive, was
24 that submitted for laboratory analysis?

25 A. Yes, it was.

1 Q. To your knowledge, did you -- was anything of
2 evidentiary value found?

3 A. To my knowledge, no.

4 Q. In regard to the digital camera, that was Item
5 504. Is that right?

6 A. Correct.

7 Q. And was that submitted for laboratory analysis?

8 A. Yes. The camera and any memory card or disk that
9 might have been inside.

10 Q. And to your knowledge was anything of evidentiary
11 value found on that?

12 A. To my knowledge nothing was found of evidentiary
13 in this case.

14 Q. Okay. What was the next item that you seized?

15 A. That would have been the -- a checkbook cover.

16 Q. Can you see that in this particular photograph?

17 A. No. I don't believe you can.

18 Q. Let me back up a photograph or two here.

19 A. You can see it in that one.

20 Q. Okay. For the record, I'm showing Exhibit
21 No. 2380 at this time on the overhead.

22 Can you see the checkbook cover in that
23 particular photograph?

24 A. Yes. It is right there.

25 Q. And did you seize that particular item?

1 A. Yes, I did.

2 Q. Let me show you what's been marked as Exhibit
3 No. 341 for identification.

4 341. Do you recognize what's depicted in
5 that particular exhibit?

6 A. Yes. It looks like the white checkbook cover.

7 Q. Is that the checkbook cover that you seized?

8 A. Yes.

9 MR. BUTNER: I would move for the admission of
10 Exhibit 341 at this time.

11 MR. SEARS: No objection.

12 THE COURT: 341 is admitted.

13 BY MR. BUTNER:

14 Q. And you say, "a checkbook cover." Were there any
15 checks in the checkbook cover?

16 A. No. It was empty.

17 Q. Okay. I'm placing the checkbook cover on the
18 overhead right now for the jury to look at, Exhibit No. 341.

19 I see that this has an evidence number
20 down here or some kind of a number, 505. Do you know what
21 that refers to?

22 A. Yes. That's the item number that it was given
23 when it was collected.

24 Q. So is that the item number on the supplement to
25 the search warrant?

1 A. Yes.

2 Q. Okay. And, in fact, is that a document -- the
3 supplement, you are looking at that right now?

4 A. Yes.

5 Q. And that tracks the evidence when you seize it?

6 A. Yes, sir.

7 Q. Now, the search warrant supplement, do you file
8 that with the Court?

9 A. Yes. The copies of the search warrant
10 supplement -- as I said, it's three or four pages with
11 carbon -- not really carbon, the newer stuff -- anyway a
12 copy, one page of that three- or four-page document is
13 attached to the search warrant when it's returned to the
14 Court.

15 Q. To show the Court all the items that you've seized
16 pursuant to the warrant?

17 A. Yes.

18 Q. And was that checkbook submitted for analysis?

19 A. To my knowledge it was, for the blood evidence.

20 Q. Was anything of evidentiary value obtained?

21 A. I was not made aware of it.

22 Q. Let me show you what's been marked as
23 Exhibit 3250.

24 Do you recognize this particular object?

25 A. Yes, I do.

1 Q. What is it?

2 A. It's the desk calendar from the office desk.

3 Q. Is that the desk calendar that you seized?

4 A. Yes.

5 Q. On July the 3rd of the year 2008?

6 A. Yes, sir.

7 MR. BUTNER: I would move for the admission of
8 Exhibit No. 3250 at this time.

9 MR. SEARS: No objection.

10 THE COURT: 3250 is admitted.

11 BY MR. BUTNER:

12 Q. And I note that there are various stains on that
13 calendar. Is that right?

14 A. Yes.

15 Q. And what did you see those as when you seized this
16 particular calendar on July 3rd of the year 2008?

17 MR. SEARS: Foundation. 702.

18 THE COURT: Overruled. You may answer that if
19 you can.

20 THE WITNESS: It looked to be blood spatter
21 and blood drops.

22 BY MR. BUTNER:

23 Q. And is that the reason why you seized the
24 calendar?

25 A. Yes.

1 Q. And we've been looking at various photographs.

2 For the record, just going back to
3 Exhibit No. 2329, do you see the calendar on that particular
4 photograph?

5 A. Yes, I do.

6 Q. That's being displayed to the jury right now, that
7 particular photograph; right?

8 A. Yes.

9 Q. And is that the position that the calendar was in
10 at the time that you seized it?

11 A. Yes, it is.

12 Q. Okay. In addition to the calendar, did you seize
13 any other objects in connection with your search?

14 A. Yes, I did.

15 Q. What else did you seize that day?

16 A. Well, the next item that's on the supplement was
17 the handset for a cordless telephone.

18 Q. Well, the calendar is identified as No. 505 in
19 evidence; right?

20 A. Yes, excuse me.

21 Q. That's the sheriff's office evidence number for
22 the calendar; right?

23 A. Yes, sir.

24 Q. Okay. And was there a 506?

25 A. Yes. I did skip over one, sorry.

1 Q. And what was the 506 item that you seized?

2 A. The 506 was: gray desk trim.

3 Basically -- you can't really see it in
4 this picture -- but on the edges of both desks, on that side
5 over there and then on this side, actually in several places
6 on the desk, was a gray, I believe, it was possibly aluminum
7 or some type of hard wood or aluminum or some type of metal.
8 Anyway, it was basically a kind of a gray colored trim for
9 this wooden desk, and it's in different spots on the desk.

10 Q. Let me show you what's been marked for
11 identification as Exhibit No. 342. I'm going to show you
12 what's been marked for identification as Exhibit No. 342.

13 Do you recognize what's depicted in that
14 particular exhibit?

15 A. Yes. That's the desk trim.

16 Q. And this is a two-page document; right?

17 A. Yes.

18 Q. Now, we're looking at the photograph in front of
19 us on the overhead.

20 Where was the desk trim located? Can you
21 point to the area where it was located, on this photograph.

22 A. Approximately, down in this area. I can't tell
23 exactly from this picture, but it should have been on the
24 side of the desk there. And it was laying on the ground kind
25 of in that area, somewhere in that area.

1 Q. Okay. And Exhibit 342, is this an accurate
2 depiction of the item of desk trim?

3 A. Yes, it is.

4 Q. Does it appear the way it appeared on the date
5 that you seized it in evidence on July 3rd of the year 2008?

6 A. Yes.

7 MR. BUTNER: I'd move for the admission of
8 Exhibit No. 342 at this time, Your Honor.

9 THE COURT: Mr. Sears.

10 MR. SEARS: May I have a question or two on
11 voir dire, Your Honor?

12 THE COURT: Yes, you may.

13 MR. SEARS: Thank you.

14 VOIR DIRE EXAMINATION

15 BY MR. SEARS:

16 Q. Detective, when you removed that piece of desk
17 trim, was Carol Kennedy's body still there?

18 A. Yes.

19 Q. Did you have to move the body or any part of it to
20 get the desk trim?

21 A. No.

22 Q. Okay. Was the body touching the desk trim or any
23 part of the body touching the desk trim when you collected
24 it?

25 A. I don't believe so. If so, it was very minimally.

1 Q. Did you see the hair and blood on the desk trim
2 when you collected it?

3 A. Definitely blood. I don't recall hair.

4 Q. Do you see the hair in the photo of 342 in front
5 of you?

6 A. Unless I'm missing it or unless it's just a single
7 hair or two, I don't see it.

8 MR. SEARS: Thank you.

9 Maybe we'll look at the object later.

10 No objection, Your Honor.

11 THE COURT: 342 is admitted.

12 DIRECT EXAMINATION RESUMED

13 BY MR. BUTNER:

14 Q. Okay. The next item that you seized --

15 MR. BUTNER: And you know what, Judge, it
16 might be a good idea to take the break at this time because I
17 can get more photographs that would help.

18 THE COURT: Ladies and gentlemen, we will take
19 an afternoon recess. Please remember the admonition.

20 Detective, the Rule of Exclusion of
21 Witnesses has been invoked.

22 Do you understand what that means?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. We will take a recess, and
25 please be back in the jury room in 15 minutes, so about

1 25 till.

2 Thank you.

3 (Whereupon, the jury exits the courtroom.)

4 (Brief recess.)

5 (Whereupon, the jury enters the courtroom.)

6 THE COURT: The record will show the presence
7 of the defendant, all the attorneys, and the jury.

8 Detective Edgerton has returned to the
9 witness stand and has previously been sworn.

10 Mr. Butner.

11 MR. BUTNER: Thank you, Judge.

12 DIRECT EXAMINATION RESUMED

13 BY MR. BUTNER:

14 Q. Let me show you what's been admitted into evidence
15 as Exhibit No. 2282.

16 Do you recognize what's depicted in that
17 particular photograph?

18 A. Yes.

19 Q. What is that?

20 A. It's a picture of Carol Kennedy's body laying on
21 the floor.

22 MR. BUTNER: And I think we've admitted
23 Exhibit No. -- is Exhibit 342 admitted, I think it is?

24 THE COURT: Yes.

25 MR. BUTNER: Thank you.

1 Q. Okay. Exhibit 342, that is that piece of desk
2 molding. Is that depicted in this exhibit that I've just
3 been referring to, Exhibit 2282?

4 A. Yes, it is.

5 Q. And where is it located?

6 A. It is on the ground just in front of the desk, and
7 appears to be under or slightly under Carol Kennedy's hair.

8 Q. And, in fact, in Exhibit 2282, is the checkbook
9 cover also there?

10 A. Yes, it is.

11 Q. Okay. And is the piece of desk molding, which is
12 now in evidence with the photograph 342, is this the position
13 in which the piece of desk molding was located when you found
14 it and seized it as evidence?

15 A. Yes, it is.

16 Q. Okay.

17 MR. BUTNER: Just uncover the lens cap?

18 THE BAILIFF: Yes, sir.

19 BY MR. BUTNER:

20 Q. Okay. You have the laser pointer. Just to
21 clarify the record and assist the jury, would you point to
22 the piece of lens [sic] molding in this photograph?

23 A. It's right there.

24 Q. Okay. And then, could you tell when you seized
25 that piece of lens -- could you tell when you seized that

1 piece of desk molding where it had been attached on the desk?

2 A. Yes. It appeared to be right here. You can just
3 kind of see the little dowels. There were two or three of
4 them here, and on the other side of them there are holes,
5 which would have pushed onto the dowels.

6 Q. Which corresponded to the dowels jutting out of
7 the desk?

8 A. Yes.

9 Q. Okay. Let me show you what's been marked for
10 identification as Exhibit No. 2281. Showing you now what's
11 been marked for identification as Exhibit No. 2281, do you
12 recognize what's depicted in that particular exhibit?

13 A. Yes, I do.

14 Q. And what is depicted there?

15 A. The left side of the desk, and part of the floor,
16 and part of Carol Kennedy's body.

17 Q. Okay. And can you see the little dowels jutting
18 out from the desk where the molding was located?

19 A. Yes.

20 Q. Is this an accurate depiction of what the desk
21 looked like at the time that you were seizing the molding?

22 A. Yes.

23 MR. BUTNER: I would move for the admission of
24 Exhibit No. 2281 at this time.

25 THE COURT: Mr. Sears.

1 MR. SEARS: No objection.

2 THE COURT: 2281 is admitted.

3 MR. BUTNER: I'm going to go ahead and publish
4 this to the jury.

5 Q. I'm placing Exhibit 2281 now admitted into
6 evidence onto the overhead projector. And if you would with
7 the laser pointer, just to clarify your testimony, would you
8 point to the dowels that appear in the photograph?

9 A. Right there. Right there. I believe there is
10 another one on the very bottom.

11 Q. Okay. Now, let me show you what's been marked for
12 demonstrative purposes as Exhibit 3251 in this case. This
13 was exhibit -- this was Evidence No. 506 for the sheriff's
14 office; right?

15 A. Yes. If that's the desk trim.

16 Q. Well, I'm not telling you it's the desk dowel, but
17 do you look at this particular item and do you see the
18 sheriff's markings?

19 A. Yes. It says 506.

20 Q. Okay. And what was Evidence Item 506 on the
21 search warrant supplement?

22 A. The gray desk trim.

23 Q. Okay. Would you open, now, what's been marked for
24 demonstrative purposes as Exhibit 3251, please.

25 A. (Witness complies.)

1 Remove it?

2 Q. Yes. A photograph has already been admitted into
3 evidence.

4 And that's the piece of trim from the
5 desk that you seized on July the 3rd of the year 2008?

6 A. Yes.

7 MR. BUTNER: Judge, I ask that she be able to
8 stand up and walk in front of the jury so that they can get a
9 clear view of this.

10 THE COURT: You may do that, detective. Watch
11 your step when you step down.

12 THE WITNESS: (Witness complies.)

13 MR. SEARS: Your Honor, could we take a look
14 at that exhibit, please?

15 THE COURT: Yes, you may, Mr. Sears.

16 Detective, if you would show that to
17 Mr. Sears, please.

18 MR. SEARS: Thank you.

19 BY MR. BUTNER:

20 Q. And detective, while you're still examining that
21 particular object, can you tell what it's made of?

22 A. It appears to be wood pressed, either pressed wood
23 or pressed something of wooden composition.

24 Q. Okay. You're not a carpenter or a furniture
25 maker; are you?

1 A. Not at all.

2 Q. Okay. But it does appear to be made of wood?

3 A. Yes.

4 Q. And the desk, when you were there taking things
5 off of the desk, could you tell basically what the desk was
6 made of?

7 A. Yes. It appeared to be wood.

8 Q. Pretty much the same kind of material as this only
9 a different color?

10 A. Either that, or that was solid wood and this is
11 pressed.

12 Q. Okay. Thank you.

13 A. I was wrong about the dowel. There's still one
14 left.

15 Q. So one of the wooden dowel pieces is still
16 sticking into this particular item of trim; right?

17 A. Yes.

18 Q. Whereas the other two are on the desk?

19 A. Yes.

20 Q. Are there two holes -- yes, there are two holes
21 left on this, too? Is that correct?

22 A. Yes.

23 Q. Those would appear to correspond with the two
24 dowels jutting out from the side of the desk?

25 A. Yes, sir.

1 Q. Okay. Thank you.

2 THE COURT: Phil, is there a wastebasket?

3 THE BAILIFF: There is right there.

4 THE COURT: Okay.

5 BY MR. BUTNER:

6 Q. Were there any dents or large scratches of any
7 type on that trim that you were able to notice?

8 A. No.

9 Q. And did you see any hair attached to the piece of
10 desk trim?

11 A. Yes. In looking at the actual item, I could see
12 the hair.

13 Q. And when was that?

14 A. Just now.

15 Q. There was a piece of hair attached?

16 A. It looked like several pieces of hair stuck in the
17 blood.

18 Q. I guess I should say, "some strands of hair?"

19 A. Yes.

20 Q. Did that correspond with where the item of desk
21 trim was laying just above the head of Carol Kennedy?

22 A. Yes.

23 MR. SEARS: Leading.

24 THE COURT: Sustained.

25 MR. SEARS: Move to strike any answer.

1 THE COURT: Just the last answer is stricken.

2 BY MR. BUTNER:

3 Q. When you found the item of desk trim, where was it
4 laying relative to the position of Carol Kennedy?

5 MR. SEARS: Asked and answered.

6 THE COURT: Overruled.

7 THE WITNESS: On the ground just in front of
8 the left side of the desk, and appeared to be underneath
9 her -- if not her head, then just the hair above her head.

10 BY MR. BUTNER:

11 Q. When you first found that item of desk trim, was
12 some of her hair touching it?

13 A. Yes.

14 MR. SEARS: Both asked and answered.

15 THE COURT: Overruled.

16 BY MR. BUTNER:

17 Q. Okay. Let me show you what's been admitted into
18 evidence as Exhibit 3040.

19 I'm going to ask if you recognize what's
20 depicted in that particular exhibit?

21 A. Yes, I do.

22 Q. What is that?

23 A. It's the handset for the wireless phone -- not
24 wireless, cordless phone.

25 Q. Okay. Is that where the handset was located on

1 the date of July the 3rd of the year 2008 when you seized it?

2 A. Yes, it appears to be.

3 Q. And is this an accurate depiction of that
4 location?

5 A. Yes.

6 MR. BUTNER: I would move -- oh, wait a
7 minute, it's already admitted. Exhibit 3040 is already
8 admitted; correct, madame clerk?

9 THE COURT: One second.

10 THE CLERK: Yes.

11 THE COURT: Yes, it is.

12 MR. BUTNER: I would like to publish that.
13 Thank you.

14 THE COURT: Okay.

15 BY MR. BUTNER:

16 Q. For the record, I'm showing the jury Exhibit 3040.
17 And using your laser pointer, would you show the jury --
18 obviously they can see the cordless headset; right?

19 A. Handset.

20 Q. Handset, cordless handset; right? Okay. Now,
21 just above the cordless handset there's an object. What is
22 that?

23 A. This one here?

24 Q. No. That black object.

25 A. Oh, this -- the -- one of the legs of the desk

1 chair.

2 Q. Okay. And is that the proximity that the cordless
3 handset was in relative to that desk chair?

4 A. Yes.

5 Q. And you're the person that seized the handset;
6 right?

7 A. Yes, sir.

8 Q. Was that e-Tech landline handset submitted for
9 laboratory analysis?

10 A. To my knowledge it was.

11 Q. Okay. In addition to the items that we've just
12 discussed, did you seize any other items pursuant to the
13 search warrant, the first search warrant at Bridle Path on
14 July the 3rd of the year 2008?

15 A. Yes, I did.

16 Q. What else did you seize?

17 A. I seized what would be Item No. 1 -- excuse me,
18 512, another small flash drive, jump drive.

19 Q. Okay. And where was that located?

20 A. That was on top of the actual computer tower,
21 which was underneath the desk.

22 Q. Okay. And was that submitted for analysis?

23 A. Yes, it was.

24 Q. To your understanding was anything of evidentiary
25 value obtained out of that jump drive?

1 A. Not that I was advised.

2 Q. Okay. What else did you seize in proximity to the
3 desk on July the 3rd of the year 2008?

4 A. I seized the -- what would be Item No. 13, the
5 actual computer tower.

6 Q. Evidence Item 513 for the sheriff's office?

7 A. Yes.

8 Q. Let me show you what's been marked for evidentiary
9 purposes as Exhibit 344.

10 Do you recognize what's depicted in
11 Exhibit 344?

12 A. Yes. That's the computer tower.

13 Q. And this is when it's been placed into evidence, I
14 take it?

15 A. Yes.

16 MR. BUTNER: I would move for the admission of
17 Exhibit 344 at this time.

18 MR. SEARS: No objection.

19 THE COURT: 344 is admitted.

20 BY MR. BUTNER:

21 Q. And then, was this computer tower submitted to the
22 DPS Forensic Computer Lab for analysis?

23 A. Yes, it was.

24 MR. BUTNER: Okay. I'll just show the jury
25 that just so they have an understanding of what was seized.

1 For the record, I'm showing the jury Exhibit 344.

2 Q. And did you seize anything else there in the
3 office area?

4 A. Yes, I did.

5 Q. What else did you seize?

6 A. I seized a piece of paper from the trash can,
7 actually.

8 Q. Okay. And why did you seize that piece of paper
9 from the trash can?

10 A. It had items written on it that pertained to her
11 divorce.

12 Q. Okay. And did you think that might be of some
13 evidentiary value?

14 A. I did.

15 Q. Let me show you what's been marked for
16 identification as Exhibit 346. For the record, that's Bates
17 numbers 6332 and 6333.

18 Do you recognize this particular document
19 marked Exhibit No. 346?

20 A. Yes, I do.

21 Q. What is that?

22 A. It appears to be the copy of one side of the note,
23 or part of the paper, that I retrieved from the trash can.

24 Q. Okay. And it's a two-page document; right?

25 A. I think it was front and back.

1 Q. Front and back, but I'm showing you a two-page
2 document; right, for the record?

3 A. Yes, sir.

4 Q. Okay. Is that the front and back of the note you
5 seized?

6 A. Yes, it is.

7 Q. And that was out of the trash can at the Virginia
8 Carol Kennedy residence in the office area?

9 A. Yes.

10 Q. On July the 3rd of the year 2008, is that when you
11 seized it?

12 A. Yes.

13 MR. BUTNER: I would move for the admission of
14 Exhibit 346 at this time.

15 MR. SEARS: Your Honor, Hearsay. Relevance.
16 It's been considered by a prior order of the Court.

17 THE COURT: I am going to sustain the
18 objection, but note that foundation for this particular item
19 has been provided by this witness. There has been testimony
20 for that, in any event, for the jury to assess.

21 MR. BUTNER: Thanks, Judge.

22 Q. And did you also seize some items on the desk
23 besides the calendar?

24 A. No. Nothing other than what we've gone over so
25 far.

1 Q. What about on the left side of the desk shelves?

2 A. I did seize some items from the shelves, yes.

3 Q. Okay. So the shelves are on top of the desk,
4 then?

5 A. Yes, sir.

6 Q. Is that what you're saying?

7 A. Yes.

8 Q. Okay. They're not on this desk?

9 A. That's correct.

10 Q. Okay. Now, I understand.

11 Okay. And did you identify those as
12 Sheriff's Evidence Item No. 524?

13 A. Yes.

14 Q. As being -- how did you identify these items?
15 What did you call them?

16 A. Oh, paper documents and romantic letter, romantic
17 e-mail.

18 Q. And do you have that evidence item here in court
19 today with you?

20 A. Yes.

21 Q. Can you find it for me, please? Do you need a
22 glove?

23 A. I don't think I need it for this.

24 Q. You opened this before we started your testimony
25 this afternoon and examined it. Is that correct?

1 A. Yes.

2 Q. Is the entire contents of the documents that you
3 seized there?

4 A. Yes, they are.

5 MR. SEARS: Are these marked, Your Honor.

6 MR. BUTNER: They are marked now for the
7 record as Exhibit 3253.

8 MR. SEARS: Your Honor, we have not been
9 provided a copy of the newly marked exhibit. We are looking
10 for this evidence item. 524 is going to take a while.

11 BY MR. BUTNER:

12 Q. Showing you what's been marked for identification
13 purposes as Exhibit 3253, do you recognize what is in
14 Exhibit 3253?

15 A. (Whereupon, the witness reviews a document.)

16 Q. You know, take a look at it but do not display it
17 to the jury. Just make sure that you can see what is there?

18 A. (Whereupon, the witness reviews a document.)

19 Yes.

20 Q. Okay. Is all of it there that you seized as Item
21 No. 524 on the search warrant?

22 A. Yes.

23 Q. And for what reason did you seize these papers?

24 A. Varied reasons. There were some items of indicia
25 just basically indicating that she lived in this house, that

1 was her house. There was an address book, a printed out
2 address book. Looked like she had printed all of her
3 contacts.

4 MR. SEARS: Your Honor, the witness is
5 testifying about objects not in evidence. She can lay
6 foundation, but she is now telling the jury what they are.

7 THE COURT: Just sustained as to that last
8 statement only.

9 BY MR. BUTNER:

10 Q. If you can identify the objects without saying
11 what they contained. Do you understand what I mean by that?

12 A. I'm not sure.

13 Q. Okay. Well, you identified an address book;
14 correct?

15 A. Yes.

16 Q. Okay. And you identified -- what else was the
17 first thing that you said? Well, shall we back up and try
18 again?

19 A. Let me think here.

20 Q. You saw indicia of her residency there; right?

21 A. Thank you, yes.

22 Q. That would be indicia that Virginia Carol Kennedy
23 resided at 7485 Bridle Path?

24 A. Yes.

25 Q. Okay. And did you find any other kinds of

1 documents in these papers?

2 A. Yes. I seized some e-mails.

3 Q. Some e-mails. Okay. And then, what else did you
4 seize?

5 A. Some documents that indicated travel plans.

6 Q. Did you seize a ticket of some sort?

7 MR. SEARS: Leading. Your Honor, she's still
8 testifying about the contents of those documents. Can we go
9 side bar on this, Your Honor?

10 MR. BUTNER: Judge, I'm just trying to lay
11 foundation for these documents.

12 THE COURT: I understand.

13 MR. SEARS: It's going to be a recurring
14 problem, Your Honor.

15 THE COURT: Have you found the exhibits?

16 MR. SEARS: No, Your Honor. We have evidence
17 items 350 -- I'm sorry, were Exhibits 354 and 355 from
18 evidence 524, which lists two items. In a quick look through
19 that envelope, there are far more than two items in that
20 envelope, so I can't account for anything other than the two
21 items, which were previously marked 354 and 355 for
22 identification.

23 THE COURT: In terms of just a general
24 description of an item, without anything to do with content
25 along the lines with what has been provided here, e-mails,

1 with no further elaboration. I would permit that very
2 limited description and nothing further, Mr. Butner, at this
3 point.

4 The exhibit has not been admitted, and we
5 also need to examine what the defense has in terms of this
6 information.

7 MR. BUTNER: Judge, without arguing this whole
8 thing, all of these items have been examined by the defense
9 and photographed over a number of weeks.

10 THE COURT: Okay. We will just straighten
11 that out in terms of how they are numbered and I am sure
12 there is an explanation, but at this point --

13 MR. BUTNER: And I'll continue to lay
14 foundation, Judge.

15 THE COURT: Okay. You may proceed.

16 MR. BUTNER: Thank you.

17 Let me show you what's been marked as
18 Exhibits 354 and 355. We'll have to come back to this. We
19 need to substitute an exhibit, Judge. Somehow this exhibit
20 got modified, and I don't know who.

21 Q. Well, I can use -- you said that you found e-mails
22 in this area. Is that correct?

23 A. Yes.

24 Q. And this is a shelf area that's up on top of the
25 desk?

1 A. Yes.

2 Q. Let's see if I -- we did see a photograph, I
3 think, at some point.

4 Let me show you what's been marked as
5 Exhibit 2327 and admitted into evidence -- I will try and get
6 that focused there.

7 Do you see the desk area depicted in
8 2327?

9 A. Yes, I do.

10 Q. You've got the laser pointer at your disposal
11 there. Can you point to the area where you seized these
12 documents from?

13 A. These one or two -- I believe this is two shelves.
14 I think this is one, and this is one here. I believe most of
15 the papers came from this area, possibly the next shelf up.

16 Q. Okay. So those two shelves on the left-hand side
17 of the desk there, sitting up on top of the shelf?

18 A. Yes.

19 Q. They're just -- they're located just above a
20 drawer?

21 A. Yes.

22 Q. And that's where you found these documents and
23 Sheriff's Evidence No. 524?

24 A. That's correct.

25 Q. Okay. And there were a bunch of papers seized?

1 A. Depending on your definition of "a bunch."

2 Q. Okay. Well, you tell us?

3 A. Several, yes.

4 Q. And what other sorts of papers -- without
5 identifying their content -- what other sorts of papers did
6 you seize?

7 A. Items of indicia, printed address book entries,
8 e-mails and e-tickets or travel plans.

9 Q. Okay. And anything else?

10 A. Several little, like, just four-by-five note
11 papers, just pieces of paper at least eight or ten of them,
12 just notes of varying things on them.

13 Q. And for what purpose did you seize all of these
14 items?

15 A. Different reasons for different items. The
16 indicia, obviously to show that she did live there and she
17 had control of that house. The address book, for possible --

18 MR. SEARS: Your Honor, she's still testifying
19 on items not in evidence, beyond your order.

20 THE COURT: Sustained.

21 BY MR. BUTNER:

22 Q. Without saying the content of these items, can you
23 explain why you seized them, or do you have to tell what the
24 content was in order to provide your explanation for seizure?

25 A. I would say all of the evidence I seized were

1 either indicia of ownership, or suspicious of a possible
2 suspect in the case, or possibly leading to people who could
3 be identified as next of kin. Probably those reasons.

4 Q. Okay. Thank you.

5 Okay. And is that all of the items that
6 you seized pursuant to the search warrant at Bridle Path?

7 A. Yes.

8 Q. And after working on the search warrant at Bridle
9 Path, then where did you go?

10 A. That day?

11 Q. Right.

12 A. I went home.

13 Q. You went home. You were done that day. Is that
14 correct?

15 A. Yes, sir.

16 Q. Did you have subsequent involvement in this case?

17 A. Yes, I did.

18 Q. What was your subsequent involvement in this case?

19 A. I assisted on a second search warrant at a
20 different location, weeks later.

21 Q. Okay. Did you assist on a second search warrant
22 on October 23rd of the year 2008?

23 MR. SEARS: Excuse me, Your Honor, if we're
24 done with the crime scene photos, maybe we can take the photo
25 and screen down, please.

1 THE COURT: Yes.

2 MR. SEARS: Thank you.

3 MR. BUTNER: I'm not sure that we're done with
4 this thing, though.

5 THE BAILIFF: He may need it back, Your Honor.

6 THE COURT: I think the defense, just so they
7 can see through the courtroom. So, Phil, yes, if you would
8 take the screen down.

9 MR. BUTNER: And I won't have any further
10 photographs from that particular scene, Judge, thanks.

11 Q. I'm going to show you what's admitted into
12 evidence as Exhibit 801, and ask if you would take a look at
13 that. See if you recognize that particular document.

14 A. Yes, I do.

15 Q. If you would go through it.

16 A. This is the search warrant, one of the search
17 warrants. This one specifically was the search warrant done
18 on October 23rd, 2008.

19 Q. And were you involved in the execution of that
20 search warrant?

21 A. I was involved in the execution at the Alpine
22 Meadows residence.

23 Q. And, in fact, is there one of those supplements in
24 there that reflects some of the work that you did?

25 A. Yes.

1 Q. Have you found it?

2 A. Yes.

3 Q. Okay. Referring to Exhibit 801, did you seize
4 items in execution of that particular search warrant at
5 Alpine Meadows?

6 A. Yes, I did.

7 Q. What did you seize?

8 A. Would you like me to go through the list, or
9 just --

10 Q. Yeah, let's start with the first item that you
11 seized?

12 A. The first item is Item No. 3100, 3-1-0-0, and it
13 was a golf bag with golf clubs in it.

14 Q. Okay. Let me show you what's been marked as
15 Exhibit No. 516. Okay. Showing you what's been marked as
16 Exhibits 516 and 517 for identification purposes, do you
17 recognize what's depicted in -- first of all 516?

18 A. (Whereupon, the witness reviews a document.)

19 Yes. It's Item No. 3100, the first set
20 of golf clubs and a golf bag that I seized.

21 Q. Okay. And where did you seize those golf clubs
22 from?

23 A. They were in the garage at the 1716 Alpine Meadows
24 residence in Prescott, Hassayampa.

25 Q. Okay. And then, showing you Exhibit No. 517, do

1 you recognize what's depicted in that exhibit?

2 A. Yes. It's the second set of golf clubs that were
3 seized from the same residence in the garage, Item 3101.

4 MR. BUTNER: I would move for the admission of
5 Exhibits 516 and 517.

6 THE COURT: Mr. Sears.

7 MR. SEARS: No objection.

8 THE COURT: 516 and 517 are admitted.

9 BY MR. BUTNER:

10 Q. Now, 516, referring to the photograph, it's a
11 right-handed set of golf clubs; right?

12 A. Yes, it is.

13 Q. And then, 517, referring to the photograph, it's a
14 left-handed set of golf clubs. Is that correct?

15 A. Yes.

16 Q. And those were both located in Mr. DeMocker's
17 garage?

18 A. Yes.

19 Q. Okay. And after seizing those items in
20 Mr. DeMocker's garage, did you go to a different area of the
21 residence at 1716 Alpine Meadows, No. 1405?

22 A. Yes, I did.

23 Q. Where did you go?

24 A. Well, I believe I walked the entire residence, but
25 I specifically was searching the master bedroom.

1 Q. And did you seize another item in the master
2 bedroom, or items?

3 A. Yes, I did.

4 Q. What was the next thing that you seized as part of
5 the execution of this particular search warrant?

6 A. Again, indicia of ownership for the residence.

7 Q. Let me show you what's been marked as Exhibit
8 No. 519. Let me show you what's been marked, again, as I
9 stated, as Exhibit No. 519.

10 Do you recognize what Exhibit 519 is?

11 A. (Whereupon, the witness reviews a document.)

12 Yes, I do.

13 Q. What is it?

14 A. It's two of the items that I collected for indicia
15 of the residence, copies of them.

16 Q. Yes. Copies of those two items.

17 Did you, in fact, take a look at the
18 sheriff's evidence items to make sure these were accurate
19 copies?

20 A. Yes.

21 Q. What sheriff's evidence item did you have these
22 identified as on the search warrant supplement?

23 A. 3109. 3-1-0-9.

24 Q. And this is -- you described it as indicia of
25 residence by Mr. DeMocker there?

1 A. Yes.

2 Q. What was it? What are these items that you --

3 A. One was just a letter. It was an opened letter, I
4 believe, addressed to Mr. Steven DeMocker, and then the other
5 was a book, small book of deposit slips, I believe, in Steven
6 DeMocker's name.

7 MR. BUTNER: I would move for the admission of
8 Exhibit 519 at this time.

9 MR. SEARS: Your Honor, we have never said
10 that Mr. DeMocker lived anywhere else other than 1716 Alpine
11 Meadows, No. 1405. We offer to stipulate to that. The first
12 page of this exhibit, we confirm that as indicia. The second
13 and third pages are hearsay and are precluded by prior orders
14 of the Court.

15 THE COURT: Mr. Butner, can I please see the
16 exhibit after you view it.

17 MR. BUTNER: Certainly, Judge. And I have no
18 problem with modifying -- I guess maybe we could make another
19 exhibit just showing the front of the envelope, but I do
20 believe the foundation is laid on this particular exhibit for
21 its admission for another purpose at a later time if
22 necessary. I can't think of that at this point and I don't
23 know if that will take place, but I do believe foundation has
24 been laid.

25 THE COURT: Mr. Sears, do you object to the

1 Page 1 of this?

2 MR. SEARS: I think it's irrelevant. There's
3 no dispute that's where Mr. DeMocker lives. We've said so
4 all along. We say so here again today. Your Honor, could
5 we approach on this? This is becoming an increasing problem.

6 THE COURT: Okay. We can do that.

7 MR. SEARS: Thank you, Your Honor.

8 Ladies and gentlemen, rather than have a
9 side bar, please be seated everyone. Rather than have the
10 side bar, we have some legal matters to tend to. I am going
11 to go ahead and take the recess at this time, but there are a
12 few things I want to bring up regarding the process here.

13 First, with regard to the preliminary
14 instructions, I meant to say this before but I think you have
15 all been doing this instinctively. You now have copies of
16 the preliminary instructions, and I just don't want you
17 reading them while the testimony is going on, and you haven't
18 been doing that that I can observe.

19 I do want to let you know that beginning
20 tomorrow you will have access to those at the noon recess, so
21 you can see the preliminary instructions, read them outside
22 of the courtroom here when you are not listening to evidence
23 and seeing the exhibits, listening to testimony. So you will
24 be able to do that.

25 Also, you will be provided a chance to

1 have access to your notes as well at the noon recess. Now, I
2 don't want to restrict people with lunch plans if there are
3 special dietary needs. I need to take that into
4 consideration, but at this time I am going to work it out
5 with Phil and make sure that you can get your notes and the
6 preliminary instructions to view in the courthouse at the
7 noon recess. Now, what you want to do, though, is avoid
8 being right next to someone else when you are going over
9 notes or reading the preliminary instructions, and that is
10 for obvious reasons. We have gone through that before. You
11 don't want to have any temptation whatsoever to start
12 thinking out loud about something and initiating any kind of
13 discussion about the case. You cannot do that, as I've said
14 repeatedly, until the trial is over.

15 As a matter of fact detective, why don't
16 you step down while I talk to the jury a while. You are
17 excused for the evening recess, and remember that the Rule of
18 Exclusion of Witnesses has been invoked.

19 Thank you, detective.

20 So remember that, when you are viewing
21 the preliminary instructions and the notes.

22 I also wanted to point out that really I
23 think it's just a good idea that you have these preliminary
24 instructions. I know Judge Lindberg, I have been told by the
25 attorneys Judge Lindberg initially indicated that you would

1 not have the preliminary instructions because you are going
2 to be given final instructions, which will control, and that
3 is true, you will. However, given the length of the trial,
4 the attorneys and I really all agree that it is just a good
5 idea that you have these preliminary instructions. There is
6 a lot of information there. I wanted to bring that up.

7 Also, I want to bring up if anybody feels
8 tired or fatigued and you think that your attention is in any
9 way affected, you just need to let Phil know, or let me know,
10 and we will take a recess. It is absolutely vital, as you
11 know, that you hear and see everything that happens here in
12 Court. So if anybody feels that way, has a health issue of
13 any kind or just is tired, fatigued, let me know so we can
14 take a recess.

15 So at this time, we will go ahead and
16 take the evening recess.

17 I am going to ask the parties to remain
18 to discuss legal matters.

19 Phil, I would like you to return after
20 you escort the jury.

21 Okay. Thank you. We will go ahead and
22 recess.

23 THE BAILIFF: 9:15, Your Honor?

24 THE COURT: Yes, 9:15 tomorrow.

25 Thank you, Phil.

1 (Whereupon, the jury exits the courtroom.)

2 (Whereupon, a discussion was held and reported

3 but is not contained herein.)

4 (Whereupon, at 4:35 p.m. the case was adjourned

5 to resume at 9:15 a.m. on September 9, 2010.)

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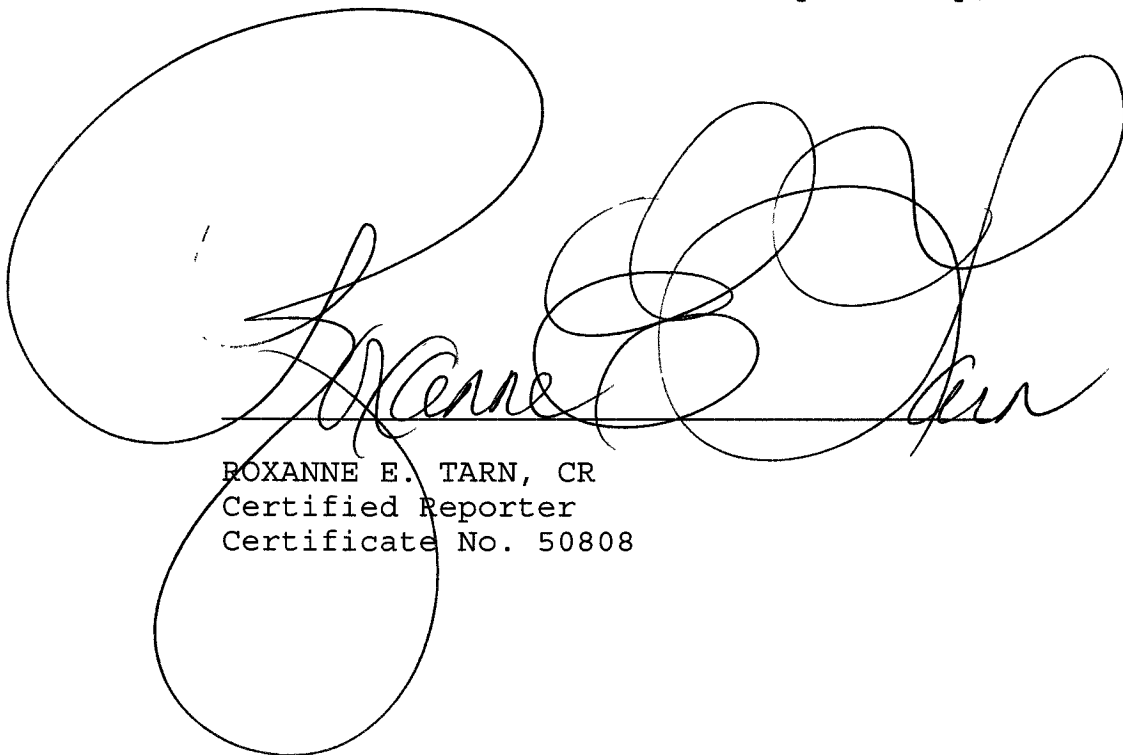
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C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 165 constitute a full, true, and accurate
transcript of the proceedings had in the foregoing matter,
all done to the best of my skill and ability.

SIGNED and dated this 16th day of July, 2011.

A large, stylized handwritten signature in black ink, appearing to read 'Roxanne E. Tarn', is written over a horizontal line. The signature is highly cursive and loops around itself.

ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808